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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



# ENROLLED

*Com. Sub. For*  
HOUSE BILL No. *4185*

(By Delegate *Kiss* )



Passed *March 6,* 1992

In Effect *From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4185**  
(By DELEGATE KISS)

[Passed March 6, 1992; in effect from passage.]

AN ACT to amend and reenact section twenty-seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to disability, retirement and death benefits for paid police or fire departments; and removing the provision that restricts credits to continuous service members who enter the armed services of the United States or the national guard during hostilities.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.**

**§8-22-27. General provisions concerning disability pensions, retirement pensions and death benefits.**

1 (a) In determining the years of service of a member  
2 in a paid police or fire department for the purpose of  
3 ascertaining certain disability pension benefits, all  
4 retirement pension benefits and certain death benefits,  
5 the following provisions shall be applicable:

6 (1) Absence from the service because of sickness or  
7 injury for a period of two years or less shall not be  
8 construed as time out of service; and

9 (2) Any member of any paid police or fire department  
10 covered by the provisions of sections sixteen through  
11 twenty-eight of this article who has been required to or  
12 shall at any future time be required to enter the armed  
13 forces of the United States by conscription, by reason  
14 of being a member of some reserve unit of the armed  
15 forces or a member of the West Virginia national guard  
16 or air national guard, whose reserve unit or guard unit  
17 is called into active duty for one year or more, or who  
18 enlists in one of the armed forces of the United States,  
19 and who upon receipt of an honorable discharge from  
20 such armed forces presents himself for resumption of  
21 duty to his appointing municipal official within six  
22 months from his date of discharge, and is accepted by  
23 the pension board's board of medical examiners as being  
24 mentally and physically capable of performing his  
25 required duties as a member of such paid police or fire  
26 department, shall be given credit for continuous service  
27 in said paid police or fire department, and his rights  
28 shall be governed as herein provided. No member of a  
29 paid police or fire department shall be required to pay  
30 the monthly assessment as now required by law, during  
31 his period of service in the armed forces of the United  
32 States.

33 (b) As to any former member of a paid police or fire  
34 department receiving disability pension benefits or  
35 retirement pension benefits from a policemen's or  
36 firemen's pension and relief fund, on the first day of  
37 July, one thousand nine hundred eighty-five, the  
38 following provisions shall govern and control the amount  
39 of such pension benefits:

40 (1) A former member who on June thirtieth, one

41 thousand nine hundred sixty-two, was receiving disabil-  
42 ity pension benefits or retirement pension benefits from  
43 a policemen's or firemen's pension and relief fund, shall  
44 continue to receive pension benefits, but on and after  
45 July one, one thousand nine hundred eighty-five, such  
46 pension benefits shall be no less than the amount of five  
47 hundred dollars per month; and

48 (2) A former member who became entitled to disabil-  
49 ity pension benefits or retirement pension benefits on or  
50 after July one, one thousand nine hundred sixty-two,  
51 shall continue to receive pension benefits, but on and  
52 after July one, one thousand nine hundred eighty-five,  
53 shall receive the disability pension benefits, or retire-  
54 ment pension benefits provided for in section twenty-  
55 four or section twenty-five of this article, as the case  
56 may be.

57 (c) As to any surviving spouse, dependent child or  
58 children, or dependent father or mother, or dependent  
59 brothers or sisters, of any former member of a paid  
60 police or fire department, receiving any death benefits  
61 from a policemen's pension and relief fund or firemen's  
62 pension and relief fund, on the first day of July, one  
63 thousand nine hundred eighty-five, the following  
64 provisions shall govern and control the amount of such  
65 death benefits:

66 (1) A surviving spouse, dependent child or children,  
67 or dependent father or mother, or dependent brothers  
68 or sisters, of any former member, who on June thirty,  
69 one thousand nine hundred sixty-two, was receiving any  
70 death benefits from a policemen's pension and relief  
71 fund or firemen's pension and relief fund, shall continue  
72 to receive death benefits, but on and after July one, one  
73 thousand nine hundred eighty-five, such death benefits  
74 shall be no less than the following amounts: To a  
75 surviving spouse, until death or remarriage, the sum of  
76 three hundred dollars per month, to each dependent  
77 child the sum of thirty dollars per month, until such  
78 child shall attain the age of eighteen years or marries,  
79 whichever first occurs; to each dependent orphaned  
80 child, the sum of forty-five dollars per month, until such  
81 child attains the age of eighteen years or marries,

82 whichever first occurs; to each dependent father and  
83 mother the sum of thirty dollars per month for each; to  
84 each dependent brother or sister, the sum of fifty dollars  
85 per month, until such individual attains the age of  
86 eighteen years or marries, whichever first occurs, but  
87 in no event shall the aggregate amount paid to such  
88 brothers and sisters exceed one hundred dollars per  
89 month. If at any time, because of the number of  
90 dependents, all such dependents cannot be paid in full  
91 as herein provided, then each dependent shall receive  
92 his pro rata share of such payments. In no case shall the  
93 payments to the surviving spouse and children be cut  
94 below sixty-five percent of the total amount paid to all  
95 dependents; and

96 (2) A surviving spouse, dependent child or children,  
97 or dependent father or mother, or dependent brothers  
98 or sisters, of any former member, who became eligible  
99 for death benefits on or after July one, one thousand nine  
100 hundred sixty-two, shall continue to receive death  
101 benefits, but on and after July one, one thousand nine  
102 hundred eighty-five, shall receive the death benefits  
103 provided for in section twenty-six of this article.

104 (d) A former member who is receiving disability  
105 pension benefits on the first day of July, one thousand  
106 nine hundred eighty-five, shall continue to receive  
107 disability pension benefits provided for in section  
108 twenty-four of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Somer Heck*

Chairman Senate Committee

*Ernest C. Moore*

Chairman House Committee

Originating in the House.

Takes effect from passage.

*Samuel Adams*  
Clerk of the Senate

*Donald L. Kepp*  
Clerk of the House of Delegates

*Keith Burdette*  
President of the Senate

*Robert Zell*  
Speaker of the House of Delegates

The within is approved this the 30<sup>th</sup> day of March, 1992.

*Yaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/92

Time 2:45pm