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WEST VIRGINIA LEGISLATURE

REGULAR SESSION. 1994

ENROLLED

HOUSE BILL No. HA 76

(By Delegates Ziss and Browning)

Passed March 12, 1994 In Effect 90 Days Arom Passage

® GCU 360-C

ENROLLED H. B. 4476

(By Delegates Kiss and Browning)

[Passed March 12, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact section sixteen, article twentytwo, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to pension and relief funds for policemen and firemen.

Be it enacted by the Legislature of West Virginia:

That section sixteen, 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; POLICE-MEN'S PENSION AND RELIEF FUND; FIRE-MEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

Part III.

POLICEMEN'S PENSION AND RELIEF FUND;

FIREMEN'S PENSION AND RELIEF FUND.

§8-22-16. Pension and relief funds for policemen and firemen; creation of boards of trustees; definitions; continuance of funds.

1 In every Class I and Class II city having, or which 2 may hereafter have, a paid police department and a paid 3 fire department, or either of such departments, the 4 governing body shall, and in every Class III city and Enr. H. B. 4476]

 $\mathbf{5}$ Class IV town or village having, or which may hereafter 6 have, a paid police department and a paid fire depart- $\overline{7}$ ment, or either of such departments, the governing body may, by ordinance provide for the establishment and 8 maintenance of a policemen's pension and relief fund, 9 and for a firemen's pension and relief fund, for the 1011 purposes hereinafter enumerated, and, thereupon, there 12shall be created boards of trustees which shall admin-13ister and distribute the moneys authorized to be raised by this section and the following sections of this article. 14 For the purposes of this section and sections seventeen 15through twenty-eight of this article, the term "paid 1617police department" or "paid fire department" means 18 only a municipal police department or municipal fire 19department, as the case may be, maintained and paid 20for out of public funds and whose employees are paid 21on a full-time basis out of public funds. The term shall 22not be taken to mean any such department whose 23employees are paid nominal salaries or wages or are 24only paid for services actually rendered on an hourly 25basis.

26Unless and until other provision is made by subsequent legislative action, any policemen's pension and 2728relief fund and any firemen's pension and relief fund established in accordance with the provisions of former 29article six of this chapter or this article twenty-two shall 30 be or remain mandatory and shall be governed by the 31provisions of sections sixteen through twenty-eight of 32 33 this article twenty-two (with like effect, in the case of a Class III city or Class IV town or village, as if such 3435 Class III city or Class IV town or village were a Class I or Class II city), and shall not be affected by the 36 37 transition from one class of municipal corporation to a lower class as specified in section three, article one of 38 this chapter: *Provided*. That any Class III or Class IV 39 40town or village that hereafter becomes a Class I or Class II city shall not be required to establish such pension 41 42and relief fund if said town or village is a participant in an existing pension plan regarding paid firemen 43and/or policemen. 44

45 After the thirtieth day of June, one thousand nine

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46hundred eighty-one, for the purposes of sections sixteen 47through twenty-eight of this article the word "member" 48 means any paid police officer or firefighter who at time 49of appointment to such paid police or fire department 50met the medical requirements of chapter 2-2 of the 51National Fire Protection Association Standards 52Number 1001 — Firefighters Professional Qualifications '74 as updated from year to year: Provided, That 5354any police officer or firefighter who was a member of 55such fund prior to the first day of July, one thousand 56nine hundred eighty-one, shall be considered a member 57after June thirtieth, one thousand nine hundred eighty-58one.

59For purposes of sections sixteen through twenty-eight of this article the words "salary or compensation" means 60 61remuneration actually received by a member, plus such 62member's deferred compensation under sections 125, 63 401(k), 414(h)(2) and 457 of the United States Internal 64 Revenue Code of 1986, as amended: Provided, That the remuneration received by such member during any 65 66 twelve-consecutive-month period utilized in determining 67 benefits which is in excess of an amount which is twenty percent greater than the "average adjusted salary" 68 received by such member in the two consecutive twelve-69 70consecutive-month periods immediately preceding such 71twelve-consecutive-month period utilized in determining 72benefits shall be disregarded: Provided, however, That 73the "average adjusted salary" means the arithmetic 74average of each year's adjusted salary such adjustment 75made to reflect current salary rate and such average 76adjusted salary shall be determined as follows: Assum-77 ing "year-one" means the second twelve-consecutive-78month period preceding such twelve-consecutive-month 79period utilized in determining benefits, "year-two" 80 means the twelve-consecutive-month period immediately 81 preceding such twelve-consecutive-month period utilized 82 in determining benefits, and "year-three" means the 83 twelve-consecutive-month period utilized in determining 84 benefits, year-one total remuneration shall be multiplied 85 by the ratio of year-three base salary, exclusive of all 86 overtime and other remuneration, to year-one base 87 salary, exclusive of all overtime and other remuneration, Enr. H. B. 4476]

such product shall equal "year-one adjusted salary"; 88 89 year-two total remuneration shall be multiplied by the 90 ratio of year-three base salary, exclusive of all overtime 91 and other remuneration, to year-two base salary, 92exclusive of all overtime and other remuneration, such 93 product shall equal "year-two adjusted salary"; and the 94arithmetic average of year-one adjusted salary and year-95 two adjusted salary shall equal the average adjusted 96 salary.

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

Chairman Senate Commit Chairman House Committee

Originating in the House.

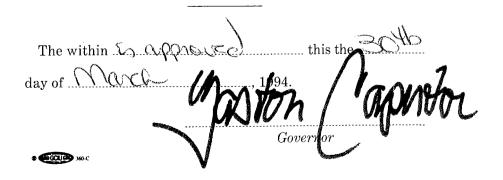
Takes effect ninety days from passage

Clerk of the Senate

Clerk of the House of Delegates

Presider the Senate

Speaker of the House of Delegates



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GOVERNOR Date <u>128/44</u> Time <u>7:30</u>4