

WB 4476

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STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

HOUSE BILL No. 4476

(By Delegates Kiss and Browning)



Passed March 12, 1994

In Effect 90 Days from Passage

**ENROLLED**  
**H. B. 4476**

(By DELEGATES KISS AND BROWNING)

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

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AN ACT to amend and reenact section sixteen, article twenty-two, 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; 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.**

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

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

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

45 After the thirtieth day of June, one thousand nine

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

59 For purposes of sections sixteen through twenty-eight  
60 of this article the words “salary or compensation” means  
61 remuneration actually received by a member, plus such  
62 member’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  
65 remuneration received by such member during any  
66 twelve-consecutive-month period utilized in determining  
67 benefits which is in excess of an amount which is twenty  
68 percent greater than the “average adjusted salary”  
69 received by such member in the two consecutive twelve-  
70 consecutive-month periods immediately preceding such  
71 twelve-consecutive-month period utilized in determining  
72 benefits shall be disregarded: *Provided, however*, That  
73 the “average adjusted salary” means the arithmetic  
74 average of each year’s adjusted salary such adjustment  
75 made to reflect current salary rate and such average  
76 adjusted salary shall be determined as follows: Assum-  
77 ing “year-one” means the second twelve-consecutive-  
78 month period preceding such twelve-consecutive-month  
79 period 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,

88 such product shall equal "year-one adjusted salary";  
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,  
92 exclusive of all overtime and other remuneration, such  
93 product shall equal "year-two adjusted salary"; and the  
94 arithmetic 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.

*[Handwritten signature]*  
Chairman Senate Committee

*[Handwritten signature]*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage

*[Handwritten signature]*  
Clerk of the Senate

*[Handwritten signature]*  
Clerk of the House of Delegates

*[Handwritten signature]*  
President of the Senate

*[Handwritten signature]*  
Speaker of the House of Delegates

The within is approved this the 30th day of March, 1994.

*[Handwritten signature]*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/94

Time 9:30 am