WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

ENROLLED

HOUSE BILL No. HH 26

(By Delegates Kiss and Browning)

Passed March 12, 1994

In Effect 90 Days from Passage
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.

In every Class I and Class II city having, or which may hereafter have, a paid police department and a paid fire department, or either of such departments, the governing body shall, and in every Class III city and
Class IV town or village having, or which may hereafter have, a paid police department and a paid fire department, or either of such departments, the governing body may, by ordinance provide for the establishment and maintenance of a policemen's pension and relief fund, and for a firemen's pension and relief fund, for the purposes hereinafter enumerated, and, thereupon, there shall be created boards of trustees which shall administer and distribute the moneys authorized to be raised by this section and the following sections of this article. For the purposes of this section and sections seventeen through twenty-eight of this article, the term “paid police department” or “paid fire department” means only a municipal police department or municipal fire department, as the case may be, maintained and paid for out of public funds and whose employees are paid on a full-time basis out of public funds. The term shall not be taken to mean any such department whose employees are paid nominal salaries or wages or are only paid for services actually rendered on an hourly basis.

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

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

For purposes of sections sixteen through twenty-eight of this article the words “salary or compensation” means remuneration actually received by a member, plus such member’s deferred compensation under sections 125, 401(k), 414(h)(2) and 457 of the United States Internal Revenue Code of 1986, as amended: Provided, That the remuneration received by such member during any twelve-consecutive-month period utilized in determining benefits which is in excess of an amount which is twenty percent greater than the “average adjusted salary” received by such member in the two consecutive twelve-consecutive-month periods immediately preceding such twelve-consecutive-month period utilized in determining benefits shall be disregarded: Provided, however, That the “average adjusted salary” means the arithmetic average of each year’s adjusted salary such adjustment made to reflect current salary rate and such average adjusted salary shall be determined as follows: Assuming “year-one” means the second twelve-consecutive-month period preceding such twelve-consecutive-month period utilized in determining benefits, “year-two” means the twelve-consecutive-month period immediately preceding such twelve-consecutive-month period utilized in determining benefits, and “year-three” means the twelve-consecutive-month period utilized in determining benefits, year-one total remuneration shall be multiplied by the ratio of year-three base salary, exclusive of all overtime and other remuneration, to year-one base salary, exclusive of all overtime and other remuneration,
such product shall equal "year-one adjusted salary"; year-two total remuneration shall be multiplied by the ratio of year-three base salary, exclusive of all overtime and other remuneration, to year-two base salary, exclusive of all overtime and other remuneration, such product shall equal "year-two adjusted salary"; and the arithmetic average of year-one adjusted salary and year-two adjusted salary shall equal the average adjusted salary.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor
PRESENTED TO THE
GOVERNOR
Date 3/28/44
Time 9:30 a.m.