WEST virginia legislature

2021 regular session

Introduced

House Bill 2784

By Delegates Bates, J. Pack, Steele, and Evans

[Introduced February 26, 2021; Referred to the Committee on Pensions and Retirement then Finance]

A BILL to amend and reenact §8-22-25 of the Code of West Virginia, 1931, as amended, relating to including “fractional years” into annual pension retirement plans.

Be it enacted by the Legislature of West Virginia:

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.

§8-22-25. Retirement pensions.

(a) Any member of a paid police or fire department who is entitled to a retirement pension hereunder, and who has been in the honorable service of such department for 20 years, may, upon written application to the board of trustees, be retired from all service in such department without medical examination or disability. On such retirement the board of trustees shall authorize the payment of annual retirement pension benefits commencing upon the member’s retirement or upon the member’s attaining the age of 50 years, whichever is later, payable in 12 monthly installments for each year of the remainder of the member’s life, in an amount equal to 60 percent of such member’s average annual salary or compensation received during the three 12-consecutive-month periods of employment with such department in which such member received the member’s highest salary or compensation while a member of the department, or an amount of $500 per month, whichever is greater.

(b) Any member of any such department who is entitled to a retirement pension under the provisions of subsection (a) of this section and who has been in the honorable service of such department for more than 20 years at the time of the member’s retirement shall receive, in addition to the 60 percent authorized in said subsection (a):

(1) Two additional percent, to be added to the 60 percent for each of the first five additional years of service completed, this may include any fractional years if provided for by municipal ordinance and resolution by the board of trustees of the plan, at the time of retirement in excess of 20 years of service up to a maximum of 70 percent; and

(2) One additional percent, to be added to such maximum of 70 percent, for each of the first five additional years of service completed, this may include any fractional years if provided for by municipal ordinance and resolution by the board of trustees of the plan,at the time of retirement in excess of 25 years of service up to a maximum of 75 percent.

The total additional credit provided for in this subsection may not exceed 15 additional percent.

(c) Any member of any such department whose service has been interrupted by duty with the armed forces of the United States as provided in §8-22-27 of this code prior to July 1, 1981, shall be eligible for retirement pension benefits immediately upon retirement, regardless of the member’s age, if the member shall otherwise be eligible for such retirement pension benefits. In no event are provisions of this subsection to be interpreted to permit retirement before age 50 unless the interruption of the member’s service by duty with the armed forces of the United States actually occurred before July 1, 1981. The amendment made to this subsection during the 2013 regular session of the Legislature is not for the purpose of changing the existing law regarding benefits provided to veterans for military service prior to July 1, 1981, but to further clarify that the provisions of this section and any previous enactments of this section do not make a member eligible for retirement before age 50 for a member’s service with the armed forces of the United States after July 1, 1981.

Any member or previously retired member of any such department who has served in active duty with the armed forces of the United States as described in §8-22-27 of this code, whether prior to or subsequent to becoming a member of a paid police or fire department covered by the provisions of this article, shall receive, in addition to the 60 percent authorized in subsection (a) of this section and the additional percent credit authorized in subsection (b) of this section, one additional percent for each year so served in active military duty, up to a maximum of four additional percent. In no event, however, may the total benefit granted to any member exceed 75 percent of the member's annual average salary calculated in accordance with subsection (a) of this section.

(d) Any member of a paid police or fire department shall be retired at the age of 65 years in the manner provided in this subsection. When a member of the paid police or fire department reaches the age of 65 years, the said board of trustees shall notify the mayor of this fact, within 30 days of such member’s 65th birthday. The mayor shall cause such 65-year-old member of the paid police or fire department to retire within a period of not more than 30 additional days. Upon retirement under the provisions of this subsection, such member shall receive retirement pension benefits payable in 12 monthly installments for each year of the remainder of the member’s life in an amount equal to 60 percent of such member's average annual salary or compensation received during the three 12-consecutive-month periods of employment with such department in which such member received the members highest salary or compensation while a member of the department, or an amount of $500 per month, whichever is greater. If such member has been employed in said department for more than 20 years, the provisions of subsection (b) of this section shall apply.

(e) It shall be the duty of each member of a paid police or fire department at the time a fund is hereafter established to furnish the necessary proof of the member’s date of birth to the said board of trustees, as specified in §8-22-23 of this code, within a reasonable length of time, said length of time to be determined by the said board of trustees. Then the board of trustees and the mayor shall proceed to act in the manner provided in subsection (d) of this section and shall cause all members of the paid police or fire department who are over the age of 65 years to retire in not less than 60 days from the date the fund is established. Upon retirement under the provisions of this subsection (e), such member, whether the member has been employed in said department for 20 years or not, shall receive retirement pension benefits payable in 12 monthly installments for each year of the remainder of the members life in an amount equal to 60 percent of such member’s average annual salary or compensation received during the three 12-consecutive-month periods of employment with such department in which such member received the member’s highest salary or compensation while a member of the department, or an amount of $500 per month, whichever is greater. If such member has been employed in said department for more than 20 years, the provisions of subsection (b) of this section shall apply.

NOTE: The purpose of this bill is to provide for “fractional years” to be included in the calculation of annual retirement pensions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.