

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]

1 A BILL to amend and reenact §8-22-25 of the Code of West Virginia, 1931, as amended, relating
2 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.

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

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

16 (1) Two additional percent, to be added to the 60 percent for each of the first five additional
17 years of service completed, this may include any fractional years if provided for by municipal

18 ordinance and resolution by the board of trustees of the plan, at the time of retirement in excess
19 of 20 years of service up to a maximum of 70 percent; and

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

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

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

38 Any member or previously retired member of any such department who has served in
39 active duty with the armed forces of the United States as described in §8-22-27 of this code,
40 whether prior to or subsequent to becoming a member of a paid police or fire department covered
41 by the provisions of this article, shall receive, in addition to the 60 percent authorized in subsection
42 (a) of this section and the additional percent credit authorized in subsection (b) of this section,
43 one additional percent for each year so served in active military duty, up to a maximum of four

44 additional percent. In no event, however, may the total benefit granted to any member exceed 75
45 percent of the member's annual average salary calculated in accordance with subsection (a) of
46 this section.

47 (d) Any member of a paid police or fire department shall be retired at the age of 65 years
48 in the manner provided in this subsection. When a member of the paid police or fire department
49 reaches the age of 65 years, the said board of trustees shall notify the mayor of this fact, within
50 30 days of such member's 65th birthday. The mayor shall cause such 65-year-old member of the
51 paid police or fire department to retire within a period of not more than 30 additional days. Upon
52 retirement under the provisions of this subsection, such member shall receive retirement pension
53 benefits payable in 12 monthly installments for each year of the remainder of the member's life in
54 an amount equal to 60 percent of such member's average annual salary or compensation
55 received during the three 12-consecutive-month periods of employment with such department in
56 which such member received the member's highest salary or compensation while a member of
57 the department, or an amount of \$500 per month, whichever is greater. If such member has been
58 employed in said department for more than 20 years, the provisions of subsection (b) of this
59 section shall apply.

60 (e) It shall be the duty of each member of a paid police or fire department at the time a
61 fund is hereafter established to furnish the necessary proof of the member's date of birth to the
62 said board of trustees, as specified in §8-22-23 of this code, within a reasonable length of time,
63 said length of time to be determined by the said board of trustees. Then the board of trustees and
64 the mayor shall proceed to act in the manner provided in subsection (d) of this section and shall
65 cause all members of the paid police or fire department who are over the age of 65 years to retire
66 in not less than 60 days from the date the fund is established. Upon retirement under the
67 provisions of this subsection (e), such member, whether the member has been employed in said
68 department for 20 years or not, shall receive retirement pension benefits payable in 12 monthly
69 installments for each year of the remainder of the member's life in an amount equal to 60 percent

70 of such member's average annual salary or compensation received during the three 12-
71 consecutive-month periods of employment with such department in which such member received
72 the member's highest salary or compensation while a member of the department, or an amount
73 of \$500 per month, whichever is greater. If such member has been employed in said department
74 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.