

1 **H. B. 2168**

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3 (By Delegates Azinger and Crosier)
4 [Introduced January 12, 2011; referred to the
5 Committee on Pensions and Retirement then Finance.]
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10 A BILL to amend and reenact §8-22-25 of the Code of West Virginia,
11 1931, as amended, relating to permitting a retired police
12 officer to be hired as a chief of police and continue to
13 receive retirement benefits.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §8-22-25 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION**
18 **AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND;**
19 **PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM,**
20 **SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE**
21 **SYSTEM.**

22 **§8-22-25. Retirement pensions.**

23 (a) Any member of a paid police or fire department who is
24 entitled to a retirement pension hereunder, and who has been in the

1 honorable service of such department for twenty years, may, upon
2 written application to the board of trustees, be retired from all
3 service in such department without medical examination or
4 disability. On such retirement the board of trustees shall
5 authorize the payment of annual retirement pension benefits
6 commencing upon ~~his~~ the member's retirement or upon ~~his~~ the
7 member's attaining the age of fifty years, whichever is later,
8 payable in twelve monthly installments for each year of the
9 remainder of ~~his~~ the member's life, in an amount equal to sixty
10 percent of such member's average annual salary or compensation
11 received during the three twelve-consecutive-month periods of
12 employment with such department in which such member received ~~his~~
13 the member's highest salary or compensation while a member of the
14 department, or an amount of \$500 per month, whichever is greater.

15 (b) Any member of any such department who is entitled to a
16 retirement pension under the provisions of subsection (a) of this
17 section and who has been in the honorable service of such
18 department for more than twenty years at the time of ~~his~~ the
19 member's retirement shall receive, in addition to the sixty percent
20 authorized in ~~said~~ subsection (a) of this section:

21 (1) Two additional percent, to be added to the sixty percent
22 for each of the first five additional years of service completed at
23 the time of retirement in excess of twenty years of service up to
24 a maximum of seventy percent; and

1 (2) One additional percent, to be added to such maximum of
2 seventy percent, for each of the first five additional years of
3 service completed at the time of retirement in excess of twenty-
4 five years of service up to a maximum of seventy-five percent.

5 The total additional credit provided ~~for~~ in this subsection
6 may not exceed fifteen additional percent.

7 (c) Any member of any such department whose service has been
8 interrupted by duty with the Armed Forces of the United States as
9 provided in section twenty-seven of this article prior to July 1,
10 1981, shall be eligible for retirement pension benefits immediately
11 upon retirement, regardless of ~~his~~ the member's age, if ~~he~~ the
12 member shall otherwise be eligible for such retirement pension
13 benefits.

14 Any member or previously retired member of any such department
15 who has served in active duty with the Armed Forces of the United
16 States as described in section twenty-seven of this article,
17 whether prior to or subsequent to becoming a member of a paid
18 police or fire department covered by the provisions of this
19 article, shall receive, in addition to the sixty percent authorized
20 in subsection (a) of this section and the additional percent credit
21 authorized in subsection (b) of this section, one additional
22 percent for each year so served in active military duty, up to a
23 maximum of four additional percent. In no event, however, may the
24 total benefit granted to any member exceed seventy-five percent of

1 the member's annual average salary calculated in accordance with
2 subsection (a) of this section.

3 (d) Any member of a paid police or fire department shall be
4 retired at the age of sixty-five years in the manner provided in
5 this subsection. When a member of the paid police or fire
6 department reaches the age of sixty-five years, the said board of
7 trustees shall notify the mayor of this fact, within thirty days of
8 such member's sixty-fifth birthday. The mayor shall cause such
9 sixty-five- year- old member of the paid police or fire department
10 to retire within a period of not more than thirty additional days.
11 Upon retirement under the provisions of this subsection, such
12 member shall receive retirement pension benefits payable in twelve
13 monthly installments for each year of the remainder of ~~his~~ the
14 member's life in an amount equal to sixty percent of such member's
15 average annual salary or compensation received during the three
16 twelve-consecutive-month periods of employment with such department
17 in which such member received ~~his~~ the member's highest salary or
18 compensation while a member of the department, or an amount of \$500
19 per month, whichever is greater. If such member has been employed
20 in said department for more than twenty years, the provisions of
21 subsection (b) of this section shall apply.

22 (e) It shall be the duty of each member of a paid police or
23 fire department at the time a fund is hereafter established to
24 furnish the necessary proof of ~~his~~ the member's date of birth to

1 the said board of trustees, as specified in section twenty-three of
2 this article, within a reasonable length of time, said length of
3 time to be determined by the said board of trustees. Then the
4 board of trustees and the mayor shall proceed to act in the manner
5 provided in subsection (d) of this section and shall cause all
6 members of the paid police or fire department who are over the age
7 of sixty-five years to retire in not less than sixty days from the
8 date the fund is established. Upon retirement under the provisions
9 of this subsection ~~(e)~~, such member, whether ~~he~~ the member has been
10 employed in said department for twenty years or not, shall receive
11 retirement pension benefits payable in twelve monthly installments
12 for each year of the remainder of ~~his~~ the member's life in an
13 amount equal to sixty percent of such member's average annual
14 salary or compensation received during the three twelve-
15 consecutive-month periods of employment with such department in
16 which such member received ~~his~~ the member's highest salary or
17 compensation while a member of the department, or an amount of \$500
18 per month, whichever is greater. If such member has been employed
19 in said department for more than twenty years, the provisions of
20 subsection (b) of this section shall apply.

21 (f) Notwithstanding any provision in the code to the contrary,
22 a retired member may serve as a chief of police beyond the age of
23 sixty-five while continuing to receive retirement benefits.
24 However, in such an instance, the retired member is not eligible to

1 continue his or her participation as a contributing member of the
2 pension fund and shall not continue to accrue any additional
3 service credit or benefits in the pension fund related to the
4 continued service.

NOTE: The purpose of this bill is to permit a retired police officer to be hired as a chief of police and continue to receive retirement benefits. The bill also limits such a person from paying into or to accrue any additional benefits related to the continued service.

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