WEST VIRGINIA CODE: §8-22-18A

§8-22-18a. West Virginia Municipal Pensions Oversight Board created; powers and duties; management; composition; terms; quorum; expenses; reports.

(a)(1) The West Virginia Municipal Pensions Oversight Board, established in 2009, is hereby continued as a public body corporate for the purpose of monitoring and improving the performance of municipal policemen's and firemen's pension and relief funds to assure prudent administration, investment and management of the funds. Management of the oversight board shall be vested solely in the members of the oversight board. Duties of the oversight board shall include, but not be limited to, assisting municipal boards of trustees in performing their duties, assuring the funds' compliance with applicable laws, providing for actuarial studies, distributing tax revenues to the funds, initiating or joining legal actions on behalf of active or retired pension fund members or municipal boards of trustees to protect interests of the members in the funds and taking other actions as may be reasonably necessary to provide for the security and fiscal integrity of the pension funds. The oversight board's authority to initiate legal action does not preempt the authority of municipalities, municipal policemen's and firemen's boards of trustees or pension fund active members, beneficiaries or others to initiate legal action to protect interests in the funds. Further, the oversight board may, in its discretion, investigate the actions or practices of municipal boards of trustees or of their administrators or employees that, in the oversight board's judgment, have the potential to threaten the security or fiscal integrity of the pension funds, and the boards of trustees, administrators and employees shall cooperate with the oversight board in any investigation. Regardless of whether it has previously conducted an investigation, the oversight board may initiate or intervene in legal actions to challenge or prevent any action or practice which, in the oversight board's judgment, has the potential to threaten the security or fiscal integrity of the pension funds. Establishment of the oversight board does not relieve the municipal funds' boards of trustees from their fiduciary and other duties to the funds, nor does it create any liability for the funds on the part of the state. The failure of the oversight board to investigate or initiate legal actions regarding the actions or practices of municipal boards of trustees, their administrators or employees does not render the oversight board liable for the actions or practices. Members and employees of the oversight board are not liable personally, either jointly or severally, for debts or obligations of the municipal pension and relief funds. Except as otherwise provided herein, members and employees of the oversight board have a fiduciary duty toward the municipal pension and relief funds and are liable for malfeasance or gross negligence. Employees of the oversight board are classified-exempt state employees.

(2) The oversight board shall consist of nine members. The Executive Director of the state's Investment Management Board and the Executive Director of the state's Consolidated Public Retirement Board, or their designees, shall serve as voting ex officio members. The other seven members shall be citizens of the state who have been qualified electors of the state for a period of at least one year next preceding their appointment and shall be as follows: An

active or retired member of a Municipal Policemen's Pension and Relief Fund chosen from a list of three persons submitted to the Governor by the state's largest professional municipal police officers organization, an active or retired member of a Municipal Firemen's Pension and Relief Fund chosen from a list of three persons submitted to the Governor by the state's largest professional firefighters organization, an attorney experienced in finance and investment matters related to pensions management, two persons experienced in pension funds management, one person who is a certified public accountant experienced in auditing and one person chosen from a list of three persons submitted to the Governor by the state's largest association of municipalities.

(3) On the effective date of the enactment of this section as amended during the fourth extraordinary session of the Legislature in 2009, the Governor shall forthwith appoint the members, with the advice and consent of the Senate. The Governor may remove any member from the oversight board for neglect of duty, incompetency or official misconduct.

(b) The oversight board has the power to:

(1) Enter into contracts, to sue and be sued, to implead and be impleaded;

(2) Promulgate and enforce bylaws and rules for the management and conduct of its affairs;

(3) Maintain accounts and invest those funds which the oversight board is charged with receiving and distributing. Investment of those funds may be with the Board of Treasury Investments or the Investment Management Board at the discretion of the oversight board;

(4) Make, amend and repeal bylaws, rules and procedures consistent with the provisions of this article and chapter thirty-three of this code;

(5) Notwithstanding any other provision of law, retain or employ, fix compensation, prescribe duties and pay expenses of legal, accounting, financial, investment, management and other staff, advisors or consultants as it considers necessary, including the hiring of legal counsel and actuary; and

(6) Do all things necessary and appropriate to implement and operate the board in performance of its duties. Expenses shall be paid from the moneys in the Municipal Pensions Security Fund created in section eighteen-b of this article or, prior to the transition provided in section eighteen-b of this article, the Municipal Pensions and Protection Fund: Provided, That the board may request special appropriation for special projects. The oversight board is exempt from provisions of article three, chapter five-a of this code for the purpose of contracting for actuarial services, including the services of a reviewing actuary.

(c) Except for ex officio members, the terms of oversight board members shall be staggered initially from January 1, 2010. The Governor shall appoint initially one member for a term of one year, one member for a term of two years, two members for terms of three years, one member for a term of four years and two members for terms of five years. Subsequent

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appointments shall be for terms of five years. A member serving two full consecutive terms may not be reappointed for one year after completion of his or her second full term. Each member shall serve until that member's successor is appointed and qualified. Any member may be removed by the Governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office. Any vacancy on the oversight board shall be filled by appointment by the Governor for the balance of the unexpired term.

(d) A majority of the full authorized membership of the oversight board constitutes a quorum. The board shall meet at least quarterly each year, but more often as duties require, at times and places that it determines. The oversight board shall elect a chairperson and a vice chairperson from their membership who shall serve for terms of two years and shall select annually a secretary/treasurer who may be either a member or employee of the board. The oversight board shall employ an executive director and other staff as needed and shall fix their duties and compensation. The compensation of the executive director shall be subject to approval of the Governor. Except for any special appropriation as provided in subsection (b) of this section, all personnel and other expenses of the board shall be paid from revenue collected and allocated for municipal policemen's or municipal firemen's pension and relief funds pursuant to section fourteen-d, article three, chapter thirty-three of this code and distributed through the Municipal Pensions and Protection Fund or the Municipal Pensions Security Fund created in section eighteen-b of this article. Expenses during the initial year of the board's operation shall be from proceeds of the allocation for the municipal pensions and relief funds. Expenditures in years thereafter shall be by appropriation from the Municipal Pensions Security Fund. Money allocated for municipal policemen's and firemen's pension and relief funds to be distributed from the Municipal Pensions and Protection Fund or the Municipal Pensions Security Fund shall be first allocated to pay expenses of the oversight board and the remainder in the fund distributed among the various municipal pension and relief funds as provided in section fourteen-d, article three, chapter thirty-three of this code. The board is exempt from the provisions of sections seven and eleven, article three, chapter twelve of this code relating to compensation and expenses of members, including travel expenses.

(e) Members of the oversight board shall serve the board without compensation for their services: Provided, That no public employee member may suffer any loss of salary or wages on account of his or her service on the board. Each member of the board shall be reimbursed, on approval of the board, for any necessary expenses actually incurred by the member in carrying out his or her duties. All reimbursement of expenses shall be paid out of the Municipal Pensions Security Fund.

(f) The board may contract with other state boards or state agencies to share offices, personnel and other administrative functions as authorized under this article: Provided, That no provision of this subsection may be construed to authorize the board to contract with other state boards or state agencies to otherwise perform the duties or exercise the responsibilities imposed on the board by this code.

(g) The board shall propose rules for legislative approval in accordance with the provisions

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of article three, chapter twenty-nine-a of this code as necessary to implement the provisions of this article, and may initially promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code.

(h) The oversight board shall report annually to the Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement concerning the status of municipal policemen's and firemen's pension and relief funds and shall present recommendations for strengthening and protecting the funds and the benefit interests of the funds' members.

(i) The oversight board shall cooperate with the West Virginia Investment Management Board and the Board of Treasury Investments to educate members of the local pension boards of trustees on the services offered by the two state investment boards. No later than October 31, 2013, the board shall report to the Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement a detailed comparison of returns on long-term investments of moneys held by or allocated to municipal pension and relief funds managed by the West Virginia Investment Management Board and those managed by others than the Investment Management Board. The oversight board shall also report at that time on short-term investment returns by local pension boards using the West Virginia Board of Treasury Investments compared to short-term investment returns by those local boards of trustees not using the Board of Treasury Investments.

(j) The oversight board shall establish minimum requirements for training to be completed by each member of the board of trustees of a municipal policemen's or firemen's pension and relief fund. The requirements should include, but not be limited to, training in ethics, fiduciary duty and investment responsibilities.

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