WEST VIRGINIA CODE: §8-22-19

§8-22-19. Levy to maintain fund.

(a)(1) In order for a municipal policemen's or firemen's pension and relief fund or the trustee of an issue of pension funding revenue bonds issued by the building commission of a municipality, as the case may be, to receive the allocable portion of moneys from the Municipal Pensions Security Fund created in § 8-22-18b of this code, the governing body of the municipality shall levy annually and in the manner provided by law for other municipal levies and include within the maximum levy or levies permitted by law and, if necessary, in excess of any charter provision, a tax at such rate as will, after crediting: (A) The amount of the contributions received during the year from the members of the respective paid police department or paid fire department; and (B) the allocable portion of the funds from the Municipal Pensions Security Fund created in §8-22-18b of this code payable to such municipality's municipal policemen's and firemen's pension and relief funds, provide funds equal to the amount necessary to meet the minimum standards for actuarial soundness as provided in § 8-22-20 of this code. The amount deposited in a municipal policemen's or firemen's pension and relief fund shall be irrevocably contributed, accumulated, and invested as fund assets as described in §8-22-22 and §8-22-22a of this code. The amount deposited with the trustee of an issue of pension funding revenue bonds shall be used for the purpose of paying debt service on such bonds. One 12th of each municipality's annual contributions shall be deposited with the municipality's pension trust funds as fund assets on at least a monthly basis and any revenues received from any source by a municipality which are specifically collected for the purpose of allocation for deposit into the policemen's pension and relief fund or firemen's pension and relief fund shall be so deposited within five days of receipt by the municipality. A municipality may prepay its monthly required contributions in increments greater than 1/12. Heretofore surplus reserves accumulated before the effective date of this section shall be irrevocably contributed, aggregated, and invested as fund assets described in §8-22-22 and §8-22-22a of this code. Any actuarial deficiency arising under this section and §8-22-20 of this code shall not be the obligation of the State of West Virginia.

(2) The levies authorized under the provisions of this section, or any part of them, may by the governing body be laid in addition to all other municipal levies and, to that extent, beyond the limit of levy imposed by the charter of the municipality; and the levies shall supersede and if necessary exclude levies for other purposes, where other purposes have not already attained priority, and within the limitations on taxes or tax levies imposed by the constitution and laws.

(b) The public corporations are authorized to take by gift, grant, devise, or bequest any money or real or personal property on such terms as to the investment and expenditures thereof as may be fixed by the grantor or determined by the trustees.

(c) In addition to all other sums provided for pensions in this section, it is the duty of every

WVLegislature

municipality in which any fund or funds have been or shall be established to assess and collect from each member of the paid police department or paid fire department or both each month, the sum of seven percent of the actual salary or compensation of such member; and the amount so collected shall become a regular part of the policemen's pension and relief fund, if collected from a policeman, and of the firemen's pension and relief fund, if collected from a fireman: *Provided,* That for members of the funds who are police officers or firefighters newly hired on or after January 1, 2010, the municipality shall assess and collect nine and one-half percent of the actual salary or compensation. Only those funds for which the board of trustees has collected and paid the contributions as herein provided and meeting minimum standards for actuarial soundness shall be eligible to receive moneys from the additional fire and casualty insurance premium tax as provided in §33-3-14d of this code: *Provided, however*, That the board of trustees for each pension and relief fund may assess and collect from each member of the paid police department or paid fire department or both each month not more than an additional two and one-half percent of the actual salary or compensation of each member, but not to exceed nine and one-half percent total contribution: *Provided further*, That if any board of trustees decides to assess and collect any additional amount pursuant to this subdivision above the member contribution required by this section, then that board of trustees may not reduce the additional amount until the respective pension and relief fund no longer has any actuarial deficiency: *And provided further*, That if any board of trustees decides to assess and collect any additional amount, any board of trustees decision and any additional amount is not the liability of the State of West Virginia. Member contributions shall be deposited in the pension and relief fund within five days of being collected. In the event that a municipality's building commission has issued pension funding revenue bonds, then the trustee for such bonds shall only be eligible to receive money from the additional fire and casualty insurance premium tax in §33-3-14d of this code if the board of trustees for the policemen's and firemen's pension and relief funds for which such bonds have been issued has collected and paid the contributions as herein provided and is meeting minimum standards for actuarial soundness.

(d)(1) For the fiscal year beginning on July 1, 2010, and subject to provisions of §8-22-18b and §33-3-14d of this code and for each fiscal year thereafter, the Municipal Pensions Oversight Board shall receive and retain the moneys allocated to the Municipal Pensions Security Fund until such time as the treasurer of the municipality applies for the allocable portion and certifies in writing to Municipal Pensions Oversight Board that:

(A) The municipality has irrevocably contributed the amount required under this section and §8-22-20 of this code to the pension and relief fund for the required period; and, as applicable, the trustee for the pension funding revenue bonds has filed with the governing body of the municipality and the oversight board a report showing all debt service payments have been made with previously received proceeds from the municipality and the allocable portion of the premium tax allocation received from the Municipal Pensions Security Fund for the preceding twelve months: and

(B) The board of trustees of the pension and relief fund has made a report to the governing body of the municipality and to the oversight board on the condition of its fund with respect

to the fiscal year.

(2) When the aforementioned application and certification are made, the allocable portion of moneys from the Municipal Pensions Security Fund shall be paid to the corresponding policemen's or firemen's pension and relief fund or, if pension funding revenue bonds have been issued by such municipality's building commission and remain outstanding, to the trustee for such pension funding revenue bonds. Payment to a municipal pension and relief fund or to the trustee for pension funding revenue bonds, as applicable, shall be made by electronic funds transfer.

(e) The State Auditor and the oversight board have the power, and the duty as each considers necessary, to perform or review audits on the pension and relief funds or to employ an independent consulting actuary or accountant to determine the compliance of the aforementioned certification with the requirements of this section and §8-22-20 of this code. The expense of the audit or determination shall be paid from the Municipal Pensions Security Fund pursuant to provisions of §8-22-18b of this code. If the allocable portion of the Municipal Pensions Security Fund is not paid to the pension and relief fund or to the trustee for pension funding revenue bonds, as applicable, within 18 months, the portion is forfeited by the pension and relief fund and is allocable to other eligible municipal policemen's and firemen's pension and relief funds in accordance with §33-3-14d of this code.

WV Legislature