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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



ENROLLED

HOUSE BILL No. 35

(By Mr. Prather ⁹ Mr. Barger.)



PASSED March 7 1949

In Effect July 1, 1949 Passage



35

ENROLLED
House Bill No. 35

(By MR. PRATHER and MR. BARGER)

[Passed March 7, 1949; in effect July 1, 1949.]

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article six-b, providing for the payment of fire department dues into the firemen's pension or relief fund of each eligible full-paid fire department and each eligible fire department or fire company having full-paid firemen and volunteers, and into the equipment fund of each eligible fire department or fire company having full-paid firemen and volunteers and each eligible full volunteer fire department or fire company of the tax on fire insurance premiums collected on business done in or near certain municipalities and unincorporated places and all other areas of the state; for the making of reports by licensed fire insurance companies or associations; stipulating the duties of state, county, municipal and fire department officers relating thereto; designat-

ing for what purposes fire department dues may be expended; establishing minimum qualifications for fire departments or fire companies for eligibility to receive fire department dues and defining what constitutes a full-paid fire department, a fire department having full-paid firemen and volunteers, and a full volunteer fire department or fire company with respect to the provisions of this article.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be designated article six-b, to read as follows:

Section 1. *Appropriation of Annual Fire Department*
2 *Dues on Fire Insurance Companies or Associations for the*
3 *Firemen's Pension or Relief Fund of each Eligible Full-*
4 *Paid Fire Department and Each Eligible Fire Department*
5 *Having Full-Paid Firemen and Volunteers, and Into the*
6 *Equipment Fund of Each Eligible Fire Department Having*
7 *Full-Paid Firemen and Volunteers and Each Eligible Full*
8 *Volunteer Fire Department or Fire Company.*—On and
9 after the first day of July, one thousand nine hundred forty

10 nine, and annually thereafter, there is hereby set aside
11 for fire department dues for the firemen's pension or relief
12 fund of each eligible full-paid fire department and each
13 eligible fire department having full-paid firemen and vol-
14 unteers, and into the equipment fund of each eligible fire
15 department having full-paid firemen and volunteers and
16 each eligible full volunteer fire department or fire com-
17 pany, as hereinafter provided, in each municipality or
18 unincorporated place, the annual tax of two per cent col-
19 lected by the insurance commissioner from fire insurance
20 companies and associations as provided in section thirty-
21 seven, article two, chapter thirty-three of the code of West
22 Virginia, one thousand nine hundred thirty-one, as
23 amended.

Sec. 2. *Duty of City Clerk or Recorder in Incorporated*
2 *Municipalities.*—The city clerk or recorder in each incor-
3 porated municipality having an organized fire depart-
4 ment or fire company, or both, eligible to receive fire de-
5 partment dues, and recognized by the council or other
6 governing body of such municipality shall, on or before
7 the thirty-first day of October in each year, make and

8 file with the insurance commissioner, on forms to be fur-
9 nished by the insurance commissioner, his certificate stat-
10 ing the existence of such department or company, or both,
11 the date of its organization, and where there are two or
12 more companies, the date of the organization of each com-
13 pany, the area, if any, outside such municipality, which
14 is furnished fire protection by such department, com-
15 pany or companies, together with such other information
16 as the insurance commissioner may require.

Sec. 3. Duty of President of County Court in Counties

2 *Having Unincorporated Places With Eligible Fire Depart-*
3 *ments or Fire Companies.*—The president of the county
4 court in any county having unincorporated towns or
5 places in which is situated an organized or chartered fire
6 department or fire company, or both, eligible to receive
7 fire department dues shall, on or before the thirty-first
8 day of October in each year, make and file with the in-
9 surance commissioner, on forms to be furnished by the
10 insurance commissioner, his certificate stating the exis-
11 tence of such department or company, or both, the date
12 of its organization, and where there are two or more com-

panies, the date of the organization of each company, the area, if any, outside such incorporated town or place, which is furnished fire protection by such department, company or companies, together with such other information as the insurance commissioner may require.

Sec. 4. *Reports by Fire Insurance Companies or Associations; Duty of Insurance Commissioner and Public Officials Relating Thereto.*—On or before the thirty-first day of December, one thousand nine hundred forty-nine, and each year thereafter, the insurance commissioner shall furnish each of such fire insurance companies or associations with a list showing each municipality or unincorporated place having an eligible fire department or fire company, together with a statement as to the boundaries of any area outside a named municipality or unincorporated place for which area such fire department or company of the named municipality or unincorporated place furnishes fire protection. Each such fire insurance company or association shall return annually on or before the first day of March, to the insurance commissioner, under the oath of its president or secretary, a statement

17 of the gross premiums received by it during the year
18 ending with the immediately preceding thirty-first day
19 of December, less the premiums returnable for cancella-
20 tion, on the business written or renewed in each munici-
21 pality or unincorporated place and the area outside each
22 such municipality or unincorporated place furnished fire
23 protection by the fire department or fire company of such
24 municipality or unincorporated place, together with a
25 statement of all premiums collected in the state in areas
26 not furnished fire protection by fire departments or fire
27 companies in municipalities or unincorporated places, and
28 pay to the insurance commissioner the amount of such
29 fire department dues. The insurance commissioner shall
30 keep a separate account of the fire department dues paid
31 by each such fire insurance companies or associations
32 on all premiums collected by each fire insurance company
33 or association on business written or renewed on prop-
34 erty situated in areas furnished fire protection by fire de-
35 partments or fire companies in municipalities and unin-
36 corporated places, and on all premiums collected by each
37 such fire insurance company or association on business

38 written or renewed on property situated outside areas
39 furnished fire protection by fire departments or fire com-
40 panies in municipalities and unincorporated places. On
41 or before the first day of May in each year, the insurance
42 commissioner shall certify to the treasurer of each mu-
43 nicipality having an eligible fire department or fire com-
44 pany, and the president of the county court in any county
45 having unincorporated places with eligible fire depart-
46 ments or fire companies entitled to receive any portion
47 of such fire department dues, the amount which is due
48 each such municipality or unincorporated place. The
49 insurance commissioner shall include in such compila-
50 tion and certification of fire department dues the amount
51 of such fire department dues paid by fire insurance com-
52 panies or associations on premiums on business written
53 or renewed on property situated in all areas not fur-
54 nished fire protection by fire departments or fire com-
55 panies in municipalities or unincorporated places. The
56 fire department dues so allocated on premiums on busi-
57 ness written or renewed by fire insurance companies or
58 associations on property situated in areas not furnished

59 fire protection shall be apportioned equally among all
60 municipalities and unincorporated places having eligible
61 fire departments or fire companies. Thereupon the treas-
62 urer of each municipality and the president of the coun-
63 ty court shall apply to the auditor, on a form to be fur-
64 nished by the insurance commissioner, for a warrant for
65 such amount of fire department dues, and such warrant
66 shall be issued and the amount paid to the treasurer of
67 each municipality and the sheriff of the county in the
68 manners provided in section one, article three, chapter
69 twelve of this code.

Sec. 5. *Expenditure of Fire Department Dues.*—In a
2 municipality having only a full-paid fire department the
3 entire amount of fire department dues so received shall
4 be held by the city treasurer as custodian of the firemen's
5 pension or relief fund of such municipality and shall be
6 used only for the purpose of such firemen's pension or
7 relief fund as provided in chapter eight, article six of this
8 code. In a municipality having a fire department or fire
9 company having full-paid firemen and volunteers, and
10 complying with the provisions of chapter eight, article

11 six-a of this code, one-half the amount of fire department
12 dues so received shall be held by the city treasurer as
13 custodian of the firemen's pension or relief fund of such
14 municipality and shall be used only for the purpose of
15 such firemen's pension or relief fund as provided in chap-
16 ter eight, article six of this code. The remaining one-
17 half of the fire department dues so received by the city
18 treasurer shall be paid by him to the proper fiscal officer
19 of the fire department or fire company and be expended
20 as hereinafter provided. In a municipality or unincor-
21 porated place having only one full volunteer fire depart-
22 ment or fire company the entire amount of fire depart-
23 ment dues so received by the city treasurer, or sheriff of
24 the county, shall be paid by him to the proper fiscal
25 officer of such volunteer fire department or fire company
26 and be expended as hereinafter provided. In a munici-
27 pality having a full-paid fire department or fire company,
28 or a fire department or fire company having full-paid fire-
29 men and volunteers, and a full volunteer fire department
30 or fire company or companies, duly recognized by the
31 council or other governing body of such municipality, and

32 in any municipality or unincorporated place having more
33 than one full volunteer fire department or fire company
34 or companies so recognized, such amount of fire depart-
35 ment dues so paid to the city treasurer or sheriff of the
36 county shall be apportioned equally among the depart-
37 ments or companies by the council or other governing
38 body of such municipality, or the sheriff of the county in
39 which the unincorporated place is situated, into such fire-
40 men's pension or relief fund as to a full-paid fire depart-
41 ment or fire company and a department or company hav-
42 ing full-paid firemen and volunteers, and, as to a full
43 volunteer fire company or companies to its proper fiscal
44 officer. The fire department dues so received by a fire
45 department or fire company having full-paid firemen and
46 volunteers, and a full volunteer fire department or fire
47 company shall be expended solely for the purchase of,
48 and repair of, fire fighting and rescue equipment, neces-
49 sary company headquarters, insurance policy premiums,
50 membership dues in regional, state and national firemen's
51 associations and fire prevention organizations, and the
52 pension, sick and benefit fund of such company as the

53 members thereof may determine.

Sec. 6. *Annual Financial Reports by Fire Departments*
2 *or Fire Companies.*—The chief of every fire department
3 or fire company eligible to receive fire department dues
4 shall, on or before the thirty-first day of January in each
5 year, make and file with the insurance commissioner a
6 notarized, detailed financial statement, signed by the sec-
7 retary and treasurer of his department or company, cov-
8 ering the fire department dues account as carried on the
9 records of his department or company for the year pre-
10 vious ending with the thirty-first day of December, setting
11 forth the receipts and disbursements of the account in such
12 form and detail, together with such other information as
13 the insurance commissioner may require. The insurance
14 commissioner shall withhold the certification of fire de-
15 partment dues the fire department or fire company is en-
16 titled to receive during the current year until the pro-
17 visions of this section are complied with.

Sec. 7. *Minimum Qualifications for Eligibility to Re-*
2 *ceive Fire Department Dues.*—No municipality or unin-
3 corporated place shall be eligible to receive fire depart-

4 ment dues unless it shall have either a full-paid fire de-
5 partment, or a fire department or fire company having
6 full-paid firemen and volunteers, or a full volunteer fire
7 department or fire company organized or chartered and
8 operated under the provisions of sections four, five, six,
9 seven and eight, article six, chapter eight, of this code,
10 and have at least one approved triple-combination fire
11 truck with a pumping capacity of at least two hundred
12 gallons of water per minute, or one chemical or tanker
13 fire truck with a carrying capacity of at least four hun-
14 dred gallons of water with a pump having a capacity of
15 at least fifty gallons of water per minute, plus at least
16 thirty-six feet of ladder equipment, and not less than
17 one thousand feet of sound hose for a triple-combination
18 pumper and not less than five hundred feet of sound hose
19 for a chemical or tanker fire truck, housed and fit and
20 ready at all times for actual service: *Provided, however,*
21 That in case any full volunteer fire department or fire
22 company organized prior to the first day of January, one
23 thousand nine hundred forty-nine, does not have a fire
24 truck pumper, but is equipped with one or more hose

25 trucks or carts with minimum ladder equipment and
26 having not less than one thousand feet of sound hose,
27 kept fit and ready at all times for actual service, and is
28 now furnishing fire protection to any municipality or
29 unincorporated place maintaining a system of waterworks
30 with sufficient pressure for fire fighting purposes, it shall
31 be deemed eligible to receive fire department dues. Each
32 fire department or fire company having full-paid firemen
33 and volunteers and each full volunteer fire department or
34 company shall hold a meeting at least once a month. The
35 state fire marshal shall, on or before the first day of Janu-
36 ary, one thousand nine hundred fifty, certify to the insur-
37 ance commissioner the names of the municipalities and
38 unincorporated places having fire departments or fire
39 companies eligible to receive fire department dues and
40 shall from time to time notify the insurance commissioner
41 of changes in the list of municipalities and unincorporated
42 places eligible to receive such fire department dues: *Pro-*
43 *vided further*, That after the second day of January, one
44 thousand nine hundred fifty, any municipality or unin-
45 corporated place qualifying for eligibility to receive fire

46 department dues shall be equipped with at least one ap-
47 proved triple-combination fire truck with a pumping ca-
48 pacity of at least five hundred gallons of water per minute,
49 plus the necessary hose, ladder and appliance equipment
50 as recommended in the specifications of the national board
51 of fire underwriters for fire apparatus of this type.

Sec. 8.—*Definition of Fire Departments for the Purpose*
2 *of Establishing Basis for Apportionment of Fire Depart-*
3 *ment Dues.*—For the purpose of establishing a basis for
4 apportionment of fire department dues under the provi-
5 sions of this article, a full-paid fire department or fire
6 company shall be deemed any municipal fire fighting
7 force, supported in whole or in part at public expense,
8 having twenty, or more, firemen employed on regularly
9 scheduled tours of duty in any capacity in the organiza-
10 tion at a daily, weekly or monthly salary set by council
11 or other governing body and who derive their sole, or
12 principal, means of subsistence from such employment.
13 A fire department or fire company having full-paid fire-
14 men and volunteers shall be deemed any municipal fire
15 fighting force, supported in whole or in part at public

16 expense, having nineteen, or less, salaried firemen em-
17 ployed as hereinbefore provided, plus the necessary vol-
18 unteer firemen so as to constitute an efficient and effective
19 fire fighting organization. A full volunteer fire department
20 or fire company shall be deemed any organized or chart-
21 ered group of firemen in any municipality or unincor-
22 porated place, who either own, operate and maintain, or
23 operate and maintain without charge the necessary equip-
24 ment as provided in section seven of this article for the
25 suppression of fires or for rendering aid in other emer-
26 gencies and who, in the event of an alarm of fire or other
27 emergency, volunteer their personal service free of
28 charge, or at a set fee for any service rendered but not
29 at a rate of pay so as to constitute their principal means of
30 subsistence.

Sec. 9. *Industrial Fire Departments, Brigades or Com-*
2 *panies Excluded From Benefits Under This Act.*—Indus-
3 trial fire departments, brigades or companies are not
4 eligible to receive fire department dues under this act.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. McNear

Chairman Senate Committee

Donna

Chairman House Committee

Originated in the House of Delegates

Takes effect

July 1, 1949

passage.

Howard Meyer

Clerk of the Senate

Joseph

Clerk of the House of Delegates

Franklin D. Roosevelt

President of the Senate

W. E. Hammy

Speaker House of Delegates

The within

disapproved

this the

14th

day of

MARCH

, 1949.

Chas. L. Patterson

Governor



Filed in the Office of the Secretary of State
of West Virginia

MAR 14 1949

D. PITT O'BRIEN,

SECRETARY OF STATE