WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1949

ENROLLED

HOUSE BILL No. 35

(By Mr. Brotherton and Barger)

PASSED March 7, 1949

In Effect July 1, 1949 -- Passage
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 Dues on Fire Insurance Companies or Associations for the Firemen's Pension or Relief Fund of each Eligible Full-Paid Fire Department and Each Eligible Fire Department Having Full-Paid Firemen and Volunteers, and Into the Equipment Fund of Each Eligible Fire Department Having Full-Paid Firemen and Volunteers and Each Eligible Full Volunteer Fire Department or Fire Company.—On and after the first day of July, one thousand nine hundred forty
nine, and annually thereafter, there is hereby set aside for fire department dues for the firemen's pension or relief fund of each eligible full-paid fire department and each eligible fire department having full-paid firemen and volunteers, and into the equipment fund of each eligible fire department having full-paid firemen and volunteers and each eligible full volunteer fire department or fire company, as hereinafter provided, in each municipality or unincorporated place, the annual tax of two per cent collected by the insurance commissioner from fire insurance companies and associations as provided in section thirty-seven, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

Sec. 2. Duty of City Clerk or Recorder in Incorporated Municipalities.—The city clerk or recorder in each incorporated municipality having an organized fire department or fire company, or both, eligible to receive fire department dues, and recognized by the council or other governing body of such municipality shall, on or before the thirty-first day of October in each year, make and
file with the insurance commissioner, on forms to be fur-
nished by the insurance commissioner, his certificate stat-
ing the existence of such department or company, or both,
the date of its organization, and where there are two or
more companies, the date of the organization of each com-
pany, the area, if any, outside such municipality, which
is furnished fire protection by such department, com-
pany or companies, together with such other information
as the insurance commissioner may require.

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

Having Unincorporated Places With Eligible Fire Depart-
ments or Fire Companies.—The president of the county
court in any county having unincorporated towns or
places in which is situated an organized or chartered fire
department or fire company, or both, eligible to receive
fire department dues shall, on or before the thirty-first
day of October in each year, make and file with the in-
surance commissioner, on forms to be furnished by the
insurance commissioner, his certificate stating the exis-
tence of such department or company, or both, the date
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
of the gross premiums received by it during the year
ending with the immediately preceding thirty-first day
of December, less the premiums returnable for cancella-
tion, on the business written or renewed in each munici-
pality or unincorporated place and the area outside each
such municipality or unincorporated place furnished fire
protection by the fire department or fire company of such
municipality or unincorporated place, together with a
statement of all premiums collected in the state in areas
not furnished fire protection by fire departments or fire
companies in municipalities or unincorporated places, and
pay to the insurance commissioner the amount of such
fire department dues. The insurance commissioner shall
keep a separate account of the fire department dues paid
by each such fire insurance companies or associations
on all premiums collected by each fire insurance company
or association on business written or renewed on prop-
erty situated in areas furnished fire protection by fire de-
partments or fire companies in municipalities and unin-
corporated places, and on all premiums collected by each
such fire insurance company or association on business
written or renewed on property situated outside areas furnished fire protection by fire departments or fire companies in municipalities and unincorporated places. On or before the first day of May in each year, the insurance commissioner shall certify to the treasurer of each municipality having an eligible fire department or fire company, and the president of the county court in any county having unincorporated places with eligible fire departments or fire companies entitled to receive any portion of such fire department dues, the amount which is due each such municipality or unincorporated place. The insurance commissioner shall include in such compilation and certification of fire department dues the amount of such fire department dues paid by fire insurance companies or associations on premiums on business written or renewed on property situated in all areas not furnished fire protection by fire departments or fire companies in municipalities or unincorporated places. The fire department dues so allocated on premiums on business written or renewed by fire insurance companies or associations on property situated in areas not furnished
fire protection shall be apportioned equally among all municipalities and unincorporated places having eligible fire departments or fire companies. Thereupon the treasurer of each municipality and the president of the county court shall apply to the auditor, on a form to be furnished by the insurance commissioner, for a warrant for such amount of fire department dues, and such warrant shall be issued and the amount paid to the treasurer of each municipality and the sheriff of the county in the manners provided in section one, article three, chapter twelve of this code.

Sec. 5. Expenditure of Fire Department Dues.—In a municipality having only a full-paid fire department the entire amount of fire department dues so received shall be held by the city treasurer as custodian of the firemen’s pension or relief fund of such municipality and shall be used only for the purpose of such firemen’s pension or relief fund as provided in chapter eight, article six of this code. In a municipality having a fire department or fire company having full-paid firemen and volunteers, and complying with the provisions of chapter eight, article
six-a of this code, one-half the amount of fire department
dues so received shall be held by the city treasurer as
custodian of the firemen's pension or relief fund of such
municipality and shall be used only for the purpose of
such firemen's pension or relief fund as provided in chap-
ter eight, article six of this code. The remaining one-
half of the fire department dues so received by the city
treasurer shall be paid by him to the proper fiscal officer
of the fire department or fire company and be expended
as hereinafter provided. In a municipality or unincor-
porated place having only one full volunteer fire depart-
ment or fire company the entire amount of fire depart-
ment dues so received by the city treasurer, or sheriff of
the county, shall be paid by him to the proper fiscal
officer of such volunteer fire department or fire company
and be expended as hereinafter provided. In a munici-
pality having a full-paid fire department or fire company,
or a fire department or fire company having full-paid fire-
men and volunteers, and a full volunteer fire department
or fire company or companies, duly recognized by the
council or other governing body of such municipality, and
in any municipality or unincorporated place having more than one full volunteer fire department or fire company or companies so recognized, such amount of fire department dues so paid to the city treasurer or sheriff of the county shall be apportioned equally among the departments or companies by the council or other governing body of such municipality, or the sheriff of the county in which the unincorporated place is situated, into such firemen's pension or relief fund as to a full-paid fire department or fire company and a department or company having full-paid firemen and volunteers, and, as to a full volunteer fire company or companies to its proper fiscal officer. The fire department dues so received by a fire department or fire company having full-paid firemen and volunteers, and a full volunteer fire department or fire company shall be expended solely for the purchase of, and repair of, fire fighting and rescue equipment, necessary company headquarters, insurance policy premiums, membership dues in regional, state and national firemen's associations and fire prevention organizations, and the pension, sick and benefit fund of such company as the
members thereof may determine.

Sec. 6. Annual Financial Reports by Fire Departments or Fire Companies.—The chief of every fire department or fire company eligible to receive fire department dues shall, on or before the thirty-first day of January in each year, make and file with the insurance commissioner a notarized, detailed financial statement, signed by the secretary and treasurer of his department or company, covering the fire department dues account as carried on the records of his department or company for the year previous ending with the thirty-first day of December, setting forth the receipts and disbursements of the account in such form and detail, together with such other information as the insurance commissioner may require. The insurance commissioner shall withhold the certification of fire department dues the fire department or fire company is entitled to receive during the current year until the provisions of this section are complied with.

Sec. 7. Minimum Qualifications for Eligibility to Receive Fire Department Dues.—No municipality or unincorporated place shall be eligible to receive fire depart-
ment dues unless it shall have either a full-paid fire department, or a fire department or fire company having full-paid firemen and volunteers, or a full volunteer fire department or fire company organized or chartered and operated under the provisions of sections four, five, six, seven and eight, article six, chapter eight, of this code, and have at least one approved triple-combination fire truck with a pumping capacity of at least two hundred gallons of water per minute, or one chemical or tanker fire truck with a carrying capacity of at least four hundred gallons of water with a pump having a capacity of at least fifty gallons of water per minute, plus at least thirty-six feet of ladder equipment, and not less than one thousand feet of sound hose for a triple-combination pumper and not less than five hundred feet of sound hose for a chemical or tanker fire truck, housed and fit and ready at all times for actual service: Provided, however, That in case any full volunteer fire department or fire company organized prior to the first day of January, one thousand nine hundred forty-nine, does not have a fire truck pumper, but is equipped with one or more hose
trucks or carts with minimum ladder equipment and
having not less than one thousand feet of sound hose,
kept fit and ready at all times for actual service, and is
now furnishing fire protection to any municipality or
unincorporated place maintaining a system of waterworks
with sufficient pressure for fire fighting purposes, it shall
be deemed eligible to receive fire department dues. Each
fire department or fire company having full-paid firemen
and volunteers and each full volunteer fire department or
company shall hold a meeting at least once a month. The
state fire marshal shall, on or before the first day of Janu-
ary, one thousand nine hundred fifty, certify to the insur-
ance commissioner the names of the municipalities and
unincorporated places having fire departments or fire
companies eligible to receive fire department dues and
shall from time to time notify the insurance commissioner
of changes in the list of municipalities and unincorporated
places eligible to receive such fire department dues: Pro-
vided further, That after the second day of January, one
thousand nine hundred fifty, any municipality or unin-
corporated place qualifying for eligibility to receive fire
department dues shall be equipped with at least one approved triple-combination fire truck with a pumping capacity of at least five hundred gallons of water per minute, plus the necessary hose, ladder and appliance equipment as recommended in the specifications of the national board of fire underwriters for fire apparatus of this type.

Sec. 8.—Definition of Fire Departments for the Purpose of Establishing Basis for Apportionment of Fire Department Dues.—For the purpose of establishing a basis for apportionment of fire department dues under the provisions of this article, a full-paid fire department or fire company shall be deemed any municipal fire fighting force, supported in whole or in part at public expense, having twenty, or more, firemen employed on regularly scheduled tours of duty in any capacity in the organization at a daily, weekly or monthly salary set by council or other governing body and who derive their sole, or principal, means of subsistence from such employment. A fire department or fire company having full-paid firemen and volunteers shall be deemed any municipal fire fighting force, supported in whole or in part at public
expense, having nineteen, or less, salaried firemen em-
ployed as hereinbefore provided, plus the necessary vol-
unteer firemen so as to constitute an efficient and effective
fire fighting organization. A full volunteer fire department
or fire company shall be deemed any organized or chart-
ered group of firemen in any municipality or unincor-
porated place, who either own, operate and maintain, or
operate and maintain without charge the necessary equip-
ment as provided in section seven of this article for the
suppression of fires or for rendering aid in other emer-
gencies and who, in the event of an alarm of fire or other
emergency, volunteer their personal service free of
charge, or at a set fee for any service rendered but not
at a rate of pay so as to constitute their principal means of
subsistence.

Sec. 9. *Industrial Fire Departments, Brigades or Com-
panies Excluded From Benefits Under This Act.*—Indus-
trial fire departments, brigades or companies are not
eligible to receive fire department dues under this act.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1949

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within disapproved this the 14th day of March, 1949.

Governor

Filed in the office of the Secretary of State at West Virginia MAR 14 1949

D. PITI O'BRIEN,
SECRETARY OF STATE