

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951



# ENROLLED

HOUSE BILL No. 199

(By Mr. Tucker)



PASSED March 9, 1951

In Effect 90 days from Passage



**ENROLLED**

**House Bill No. 199**

(By MR. TUCKER)

[Passed March 9, 1951; in effect ninety days from passage.]

AN ACT to amend and reenact sections fourteen, twenty and twenty-one, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to firemen's and policemen's pension or relief fund.

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

That section fourteen, twenty and twenty-one, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 14. *Levy to Maintain Fund; Gifts, etc.; Assessments on Members of Departments; Return of Assessments.*—In every municipality there shall be a firemen's pension or relief fund and a policemen's pension or relief fund, which shall be maintained as follows: The council or other governing body of each municipality shall levy

7 annually and in the manner provided by law for other  
8 municipal levies, and include within the ~~maximum~~ levy  
9 or levies permitted by law, and if necessary in excess of  
10 any charter provisions, a tax of not less than one cent on  
11 each one hundred dollars of all real and personal property  
12 as listed for taxation in such municipality, and, if neces-  
13 sary, in excess of one cent, but not in excess of two and  
14 one-half cents so as to meet the estimated expenditures of  
15 the boards of trustees of the respective funds, for the fire-  
16 men's pension or relief fund and a like levy on all real  
17 and personal property as listed for taxation in such mu-  
18 nicipality, for a policemen's pension fund: *Provided*, That  
19 in any city or municipality of eight thousand three hun-  
20 dred population or less the laying of the levies herein  
21 provided for shall be within the discretion of the com-  
22 mon council or other body of like power and duties in such  
23 city or municipality.

24 The levies authorized under this section, or any part of  
25 them, may by the council or other governing body be laid  
26 in addition to all other municipal levies, and to that extent  
27 beyond the limit of levy imposed by the charter of such

28 municipality; and such levies shall supersede and if neces-  
29 sary exclude levies for other purposes if such priority or  
30 exclusion is necessary under limitation upon taxes or tax  
31 levies imposed by law.

32 Such corporations are authorized to take by gift, grant,  
33 devise or bequest, any money or real or personal property,  
34 upon such terms as to the investment and expenditure  
35 thereof as may be fixed by the grantor or determined by  
36 said trustees.

37 In addition to all other sums provided for pensions in  
38 this section, it shall be the duty of every municipal cor-  
39 poration to assess and collect from each member of such  
40 fire department and police department each month, the  
41 sum of three per cent of the monthly basic pay of such  
42 fire or police department, that is, the monthly basic pay  
43 for all equally and regardless of rank or position of the  
44 member of such department and so that the amount of  
45 such deduction shall be the same for all members of such  
46 fire department and the same for all members of such  
47 police department, which amount so to be deducted shall  
48 be deducted from the monthly pay of such person; and

49 the amount so collected shall become a regular part of the  
50 firemen's pension fund, if collected from a fireman, and  
51 of the policemen's pension fund, if collected from a police-  
52 man.

53 Any member of a municipal fire or police department  
54 who is released or who before retirement on any pension  
55 severs his connection with said department, provided he  
56 has served two full years or more, shall, upon request,  
57 be refunded all deductions made from his salary, but  
58 without interest. In event such refund is made and such  
59 member subsequently re-enters the department no credit  
60 shall be allowed him for any former service.

61 *Sec. 20. Payments Upon Retirement Without Disability;*

62 *Payments for Retirement at Sixty-Five; Payments for*  
63 *Permanent Disability; Credit for Military Service.*—Any  
64 member of a municipal fire department or police depart-  
65 ment who is entitled to benefits of said fund, and who  
66 has been in the service of such department for twenty  
67 years, and upon reaching the age of fifty years, may, upon  
68 written application to the board of trustees, be retired  
69 from all service from such department without medical

10 examination or disability; and on such retirement the  
11 board of trustees shall authorize the payment of one hun-  
12 dred and ten dollars per month to such retired member  
13 during the remainder of his life; and any member of such  
14 department who is entitled to the benefits of said fund  
15 and who has been in the service of such department for  
16 more than twenty years at the time of his retirement as  
17 herein provided, shall, in addition to the one hundred ten  
18 dollars per month authorized to be paid upon retirement  
19 after twenty years service and the reaching of the age of  
20 fifty years, receive five dollars per month during the re-  
21 mainder of his life for each year of the first three addi-  
22 tional years served with such department in excess of said  
23 twenty years; but in no event shall he receive additional  
24 retirement pay for more than three such additional years:  
25 *Provided*, That any member of such department who has  
26 served in the armed services as defined hereinafter, shall  
27 be eligible to retirement prior to reaching the age of fifty  
28 years if he is otherwise eligible hereunder.

29 Any member of a municipal fire or police department,  
30 upon reaching the age of sixty-five years shall be retired

31 in the manner herein provided: each member of the fire  
32 and police department shall, at the request of the board  
33 of trustees, furnish said board of trustees with a birth  
34 certificate or other satisfactory proof of his date of birth,  
35 at the time of his appointment to the fire or police depart-  
36 ment. When a member of the fire or police department  
37 shall have reached the age of sixty-five years, the said  
38 board of trustees shall notify the mayor or other chief  
39 executive officer of the municipal corporation, within  
40 thirty days of such member's sixty-fifth birthday; and  
41 the mayor or other chief executive officer shall cause such  
42 sixty-five year old member of the fire or police depart-  
43 ment to be retired within a period of not more than thirty  
44 additional days. It shall be the duty of each member of  
45 the fire or police department who are members at the  
46 time this act becomes effective to furnish the said neces-  
47 sary proof of his date of birth to the said board of trustees  
48 within a reasonable length of time, said length of time to  
49 be determined by the said board of trustees; and then  
50 the board of trustees and the mayor or other chief execu-  
51 tive officer of the municipal corporation shall proceed to

52 act in the manner herein provided, and shall cause all  
53 members of the fire or police department who are over  
54 the age of sixty-five years to be retired in not less than  
55 sixty days from the date this act becomes effective. The  
56 amount of pension such members shall receive shall de-  
57 pend upon their length of service as herein provided. Such  
58 member need not have served twenty years to receive  
59 the minimum amount of pension of one hundred ten dol-  
60 lars per month for the remainder of his life.

61 The sum to be paid to permanently disabled members  
62 shall be at the rate of one hundred twenty-five dollars  
63 per month, which shall be paid regardless of the position  
64 in the department of such disabled member.

65 Absence from the service because of sickness or injury  
66 shall not be construed as time out of service.

67 Any member of such department who has served in the  
68 armed services of the United States between September  
69 fifteen, one thousand nine hundred forty, the date of the  
70 selective service act, and September second, one thousand  
71 nine hundred forty-five, the date of the official termina-  
72 tion of hostilities with Japan, and who has not been dis-



73 honorably discharged from said service, shall be given  
74 credit for continuous service in said fire or police depart-  
75 ment if he was already a member of such department at  
76 the time of his entrance into such armed service, and that  
77 such member did not re-enlist in such armed services  
78 after such official termination of hostilities and did pre-  
79 sent himself to the mayor or other officer, board or person  
80 having the power of original appointment to such fire  
81 or police department within six months after his honorable  
82 discharge from such armed service, and offer to resume  
83 service as an active member of such fire or police depart-  
84 ment, and was declared mentally and physically capable  
85 of performing his entire duties as a member of the depart-  
86 ment by the pension board doctors.

87 Any member of any fire or police department covered  
88 by this act who has been required to, or shall at any future  
89 time be required to enter the armed forces of the United  
90 States by a conscription, by reason of being a member of  
91 some reserve unit of the armed forces, or a member of  
92 the West Virginia national guard, or who enlists in one of  
93 the armed services of the United States during actual

94 hostilities, and upon his receipt of an honorable discharge  
95 from such armed forces presents himself for resumption  
96 of duty to his appointing municipal official within six  
97 months from date of discharge, and is accepted by the  
98 pension board doctors as being mentally and physically  
99 capable of performing his required duties as a member  
100 of such fire or police department, shall be given credit  
101 for continuous service in said fire or police department,  
102 and his pension rights shall be governed as herein pro-  
103 vided.

104 No member of the fire or police departments shall be  
105 required to pay the monthly assessment as now required  
106 by law, during his period of service in the armed forces  
107 of the United States.

108 None of the provisions of this act shall apply to or affect  
109 any person who at the time this act takes effect is receiv-  
110 ing any pension, payment or benefit from the firemen's or  
111 policemen's pension or relief funds.

Sec. 21. *Payments in Case of Death.*—In case any such  
2 municipal employee who has been in continuous service  
3 for over five years shall be killed or die, then, and in that

4 case, the board of trustees of said pension fund shall pay  
5 to the dependent wife or dependent minor children or  
6 dependent mother or father, or brothers and sisters, if  
7 there be any such one or ones, the following pensions,  
8 viz: To the widow, the sum of fifty dollars per month,  
9 until her death or remarriage; for the support and main-  
10 tenance of any dependent children, the sum of fifteen  
11 dollars per month for each living child until such child  
12 shall have attained the age of eighteen years: *Provided,*  
13 *however,* That each surviving orphaned child shall re-  
14 ceive twenty dollars per month until such child shall have  
15 attained the age of eighteen years; to a dependent mother  
16 and father the sum of fifteen dollars per month to each,  
17 and, if one be dead, the sum of twenty dollars per month  
18 to the survivor; to dependent brothers and sisters, until  
19 they shall have attained the age of sixteen years, the sum  
20 of five dollars per month for each, but in no case shall  
21 the total amount paid to brothers and sisters exceed thirty  
22 dollars per month. But if at any time, because of the  
23 number of dependents, all such dependents cannot be paid  
24 in full as herein provided, then each dependent shall re-

25 ceive his pro rata share of such payments: *Provided,*  
26 *however,* That in no case shall the payments to the widow  
27 and children be cut below sixty per cent.

28 The dependent wife, child or children, or dependent  
29 father or mother, brothers or sisters of any such municipal  
30 employee who shall be killed in the performance of his  
31 duties shall, regardless of the length of his service, receive  
32 a pension as provided for in that portion of this section  
33 fixing the amount to be paid to the dependents.

34 Absence from service because of sickness or injury shall  
35 not be construed as time out of service.

36 None of the provisions of this act shall apply to or  
37 affect any person who at the time this act takes effect is  
38 receiving any pension, payment or benefit from the fire-  
39 men's or policemen's pension or relief funds.

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

Robert C. Byrd  
Chairman Senate Committee

James M. Loop  
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Thomas Keeler  
Clerk of the Senate

J. R. Gliff  
Clerk of the House of Delegates

W. B. Loughborough  
President of the Senate

W. E. F. Can  
Speaker House of Delegates

The within approved this the 16th

day of March, 1951.

Okey L. Talley  
Governor



FILED IN THE OFFICE OF THE SECRETARY OF STATE  
of West Virginia **MAR 16 1951**  
D. PITT O'BRIEN,  
SECRETARY OF STATE