WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1951

ENROLLED

HOUSE BILL No. 199

(By Mr. Tucker)

PASSED March 9, 1951

In Effect 90 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
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 provisions, a tax of not less than one cent on
each one hundred dollars of all real and personal property
as listed for taxation in such municipality, and, if neces-
sary, in excess of one cent, but not in excess of two and
one-half cents so as to meet the estimated expenditures of
the boards of trustees of the respective funds, for the fire-
men's pension or relief fund and a like levy on all real
and personal property as listed for taxation in such mu-
nicipality, for a policemen's pension fund: Provided, That
in any city or municipality of eight thousand three hun-
dred population or less the laying of the levies herein
provided for shall be within the discretion of the com-
mon council or other body of like power and duties in such
city or municipality.

The levies authorized under this section, or any part of
them, may by the council or other 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 such
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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
the amount so collected shall become a regular part of the
firemen's pension fund, if collected from a fireman, and
of the policemen's pension fund, if collected from a police-
man.

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

Sec. 20. Payments Upon Retirement Without Disability;
Payments for Retirement at Sixty-Five; Payments for
Permanent Disability; Credit for Military Service.—Any
member of a municipal fire department or police depart-
ment who is entitled to benefits of said fund, and who
has been in the service of such department for twenty
years, and upon reaching the age of fifty years, may, upon
written application to the board of trustees, be retired
from all service from such department without medical
examination or disability; and on such retirement the
board of trustees shall authorize the payment of one hun-
dred and ten dollars per month to such retired member
during the remainder of his life; and any member of such
department who is entitled to the benefits of said fund
and who has been in the service of such department for
more than twenty years at the time of his retirement as
herein provided, shall, in addition to the one hundred ten
dollars per month authorized to be paid upon retirement
after twenty years service and the reaching of the age of
fifty years, receive five dollars per month during the re-
mainder of his life for each year of the first three addi-
tional years served with such department in excess of said
twenty years; but in no event shall he receive additional
retirement pay for more than three such additional years:
Provided, That any member of such department who has
served in the armed services as defined hereinafter, shall
be eligible to retirement prior to reaching the age of fifty
years if he is otherwise eligible hereunder.

Any member of a municipal fire or police department,
in the manner herein provided: each member of the fire
and police department shall, at the request of the board
of trustees, furnish said board of trustees with a birth
certificate or other satisfactory proof of his date of birth,
at the time of his appointment to the fire or police depart-
ment. When a member of the fire or police department
shall have reached the age of sixty-five years, the said
board of trustees shall notify the mayor or other chief
executive officer of the municipal corporation, within
thirty days of such member's sixty-fifth birthday; and
the mayor or other chief executive officer shall cause such
sixty-five year old member of the fire or police depart-
ment to be retired within a period of not more than thirty
additional days. It shall be the duty of each member of
the fire or police department who are members at the
time this act becomes effective to furnish the said neces-
sary proof of his date of birth to the said board of trustees
within a reasonable length of time, said length of time to
be determined by the said board of trustees; and then
the board of trustees and the mayor or other chief execu-
tive officer of the municipal corporation shall proceed to
act in the manner herein provided, and shall cause all
members of the fire or police department who are over
the age of sixty-five years to be retired in not less than
sixty days from the date this act becomes effective. The
amount of pension such members shall receive shall de-
depend upon their length of service as herein provided. Such
member need not have served twenty years to receive
the minimum amount of pension of one hundred ten dol-
lars per month for the remainder of his life.

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

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

Any member of such department who has served in the
armed services of the United States between September
fifteen, one thousand nine hundred forty, the date of the
selective service act, and September second, one thousand
nine hundred forty-five, the date of the official termina-
tion of hostilities with Japan, and who has not been dis-
honorably discharged from said service, shall be given credit for continuous service in said fire or police department if he was already a member of such department at the time of his entrance into such armed service, and that such member did not re-enlist in such armed services after such official termination of hostilities and did present himself to the mayor or other officer, board or person having the power of original appointment to such fire or police department within six months after his honorable discharge from such armed service, and offer to resume service as an active member of such fire or police department, and was declared mentally and physically capable of performing his entire duties as a member of the department by the pension board doctors.

Any member of any fire or police department covered by this act who has been required to, or shall at any future time be required to enter the armed forces of the United States by a conscription, by reason of being a member of some reserve unit of the armed forces, or a member of the West Virginia national guard, or who enlists in one of the armed services of the United States during actual
hostilities, and upon his receipt of an honorable discharge from such armed forces presents himself for resumption of duty to his appointing municipal official within six months from date of discharge, and is accepted by the pension board doctors as being mentally and physically capable of performing his required duties as a member of such fire or police department, shall be given credit for continuous service in said fire or police department, and his pension rights shall be governed as herein provided.

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

None of the provisions of this act shall apply to or affect any person who at the time this act takes effect is receiving any pension, payment or benefit from the firemen's or policemen's pension or relief funds.

Sec. 21. Payments in Case of Death.—In case any such municipal employee who has been in continuous service for over five years shall be killed or die, then, and in that
case, the board of trustees of said pension fund shall pay
to the dependent wife or dependent minor children or
dependent mother or father, or brothers and sisters, if
there be any such one or ones, the following pensions,
viz: To the widow, the sum of fifty dollars per month,
until her death or remarriage; for the support and main-
tenance of any dependent children, the sum of fifteen
dollars per month for each living child until such child
shall have attained the age of eighteen years: Provided,
however, That each surviving orphaned child shall re-
cieve twenty dollars per month until such child shall have
attained the age of eighteen years; to a dependent mother
and father the sum of fifteen dollars per month to each,
and, if one be dead, the sum of twenty dollars per month
to the survivor; to dependent brothers and sisters, until
they shall have attained the age of sixteen years, the sum
of five dollars per month for each, but in no case shall
the total amount paid to brothers and sisters exceed thirty
dollars per month. But if at any time, because of the
number of dependents, all such dependents cannot be paid
in full as herein provided, then each dependent shall re-
ceive his pro rata share of such payments: Provided,

however, That in no case shall the payments to the widow
and children be cut below sixty per cent.

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

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

None of the provisions of this act shall apply to or
affect any person who at the time this act takes effect is
receiving any pension, payment or benefit from the fire-
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. Loach
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Stover
Clerk of the Senate

J. R. Aliff
Clerk of the House of Delegates

W. Beauchamp Westover
President of the Senate

Weston
Speaker House of Delegates

The within approved this the 16th day of March, 1951.

Okey L. Phipps
Governor

MAR 16 1951
D. Pitt O'Brien, Secretary of State