

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1953



ENROLLED

HOUSE BILL No. 367

(By Mr. Loop E. McChristian)



PASSED March 13, 1953

In Effect immediately from Passage



367

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House Bill No. 367

(By MR. LOOP and MR. CHRISTIAN)

[Passed March 13, 1953; 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, relating to firemen's and policemen's pension or relief funds and extending payments provided therein to persons already receiving payments at the effective date of this act, and authorizing an increase in the levy to provide therefor.

Be it enacted by the Legislature of West Virginia:

That sections 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.; Assess-*
2 *ments on Members of Departments; Return of Assess-*
3 *ments.*—In every municipality there shall be a firemen's

4 pension or relief fund and a policemen's pension or relief
5 fund, which shall be maintained as follows: The council
6 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 three and
14 one-half cents so as to meet the estimated expenditures
15 of the boards of trustees of the respective funds, for the
16 firemen's pension or relief fund and a like levy on all
17 real and personal property as listed for taxation in such
18 municipality, for a policemen's pension fund: *Provided,*
19 That in any city or municipality of eight thousand
20 three hundred population or less the laying of the
21 levies herein provided for shall be within the discretion
22 of the common council or other body of like power and
23 duties in such city or municipality.
24 The levies authorized under this section, or any part

25 of them, may by the council or other governing body be
26 laid in addition to all other municipal levies, and to that
27 extent beyond the limit of levy imposed by the charter
28 of such municipality; and such levies shall supersede and
29 if necessary exclude levies for other purposes if such
30 priority or exclusion is necessary under limitation upon
31 taxes or tax 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 po-
47 lice department, which amount so to be deducted shall be
48 deducted from the monthly pay of such person; and the
49 amount so collected shall become a regular part of the fire-
50 men's pension fund, if collected from a fireman, and of the
51 policemen's pension fund, if collected from a policeman.

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

Sec. 20. *Payments upon Retirement Without Disability;*

2 *Payments for Retirement at Sixty-Five; Payments for*
3 *Permanent Disability; Credit for Military Service.*—Any
4 member of a municipal fire department or police depart-
5 ment who is entitled to benefits of said fund, and who
6 has been in the service of such department for twenty
7 years, and upon reaching the age of fifty years, may,

8 upon written application to the board of trustees, be re-
9 tired from all service from such department without
10 medical examination or disability; and on such retirement
11 the board of trustees shall authorize the payment of one
12 hundred and ten dollars per month to such retired mem-
13 ber during the remainder of his life; and any member of
14 such department who is entitled to the benefits of said
15 fund and who has been in the service of such department
16 for more than twenty years at the time of his retirement
17 as herein provided, shall, in addition to the one hundred
18 ten dollars per month authorized to be paid upon retire-
19 ment after twenty years service and the reaching of the
20 age of fifty years, receive five dollars per month during
21 the remainder of his life for each year of the first three
22 additional years served with such department in excess
23 of said twenty years; but in no event shall he receive
24 additional retirement pay for more than three such addi-
25 tional years: *Provided, That* any member of such
26 department who has served in the armed services as
27 defined hereinafter, shall be eligible to retirement prior

28 to reaching the age of fifty years if he is otherwise eligible
29 hereunder.

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

49 trustees within a reasonable length of time, said length
50 of time to be determined by the said board of trustees;
51 and then the board of trustees and the mayor or other
52 chief executive officer of the municipal corporation shall
53 proceed to act in the manner herein provided, and shall
54 cause all members of the fire or police department who
55 are over the age of sixty-five years to be retired in not
56 less than sixty days from the date this article becomes
57 effective. The amount of pension such members shall
58 receive shall depend upon their length of service as herein
59 provided. Such member need not have served twenty
60 years to receive the minimum amount of pension of one
61 hundred ten dollars per month for the remainder of his
62 life.

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

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

69 Any member of such department who has served in

70 the armed services of the United States between Septem-
71 ber fifteen, one thousand nine hundred forty, the date
72 of the selective service act, and September second, one
73 thousand nine hundred forty-five, the date of the official
74 termination of hostilities with Japan, and who has not
75 been dishonorably discharged from said service, shall be
76 given credit for continuous service in said fire or police
77 department if he was already a member of such depart-
78 ment at the time of his entrance into such armed service,
79 and that such member did not reenlist in such armed
80 services after such official termination of hostilities and
81 did present himself to the mayor or other officer, board
82 or person having the power of original appointment to
83 such fire or police department within six months after
84 his honorable discharge from such armed service, and
85 offer to resume service as an active member of such fire
86 or police department, and was declared mentally and
87 physically capable of performing his entire duties as a
88 member of the department by the pension board doctors.

89 Any member of any fire or police department covered
90 by this article who has been required to or shall at any

91 future time be required to enter the armed forces of the
92 United States by a conscription, by reason of being a
93 member of some reserve unit of the armed forces, or a
94 member of the West Virginia national guard, or who
95 enlists in one of the armed services of the United States
96 during actual hostilities, and upon his receipt of an honor-
97 able discharge from such armed forces presents himself
98 for resumption of duty to his appointing municipal official
99 within six months from date of discharge, and is accepted
100 by the pension board doctors as being mentally and
101 physically capable of performing his required duties as
102 a member of such fire or police department, shall be
103 given credit for continuous service in said fire or police
104 department, and his pension rights shall be governed as
105 herein provided.

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

110 The provisions of this section shall apply to all persons
111 who at the effective date thereof are receiving any pen-

112 sion, payment or benefit from the firemen's or policemen's
113 pension or relief funds as well as to all persons who have
114 on such effective date or shall thereafter become eligible
115 for any such pension, payment or benefit from such funds.

Sec. 21 *Payments in Case of Death.*—In case any such
2 municipal employee who has been in continuous serv-
3 ice for over five years shall be killed or die, then, and
4 in that case, the board of trustees of said pension fund
5 shall pay to the dependent wife or dependent minor
6 children or dependent mother or father, or brothers and
7 sisters, if there be any such one or ones, the following
8 pensions, viz: To the widow, the sum of fifty dollars per
9 month, until her death or remarriage; for the support and
10 maintenance 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
15 have attained the age of eighteen years; to a dependent
16 mother and father the sum of fifteen dollars per month
17 to each, and, if one be dead, the sum of twenty dollars

18 per month to the survivor; to dependent brothers and
19 sisters, until they shall have attained the age of sixteen
20 years, the sum of five dollars per month for each, but in
21 no case shall the total amount paid to brothers and sisters
22 exceed thirty dollars per month. But if at any time, be-
23 cause of the number of dependents, all such dependents
24 cannot be paid in full as herein provided, then each de-
25 pendent shall receive his pro rata share of such pay-
26 ments: *Provided, however,* That in no case shall the
27 payments to the widow and children be cut below sixty
28 per cent.

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

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

37 The dependent wife, child or children, or dependent
38 father or mother, brothers or sisters of any such municipal

39 employee, who at the time this section takes effect is re-
40 ceiving any pension, payment or benefit from the fire-
41 men's or policemen's pension or relief funds, shall receive
42 a pension as provided in the portion of this section fixing
43 the amount to be paid to such dependents.

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

Wm G. Kuley
Chairman Senate Committee

C. H. Amblee
Chairman House Committee

Originated in the House of Delegates

Takes effect *thirty days from* passage.

Howard Myers
Clerk of the Senate

Joseph
Clerk of the House of Delegates

Ralph Bean
President of the Senate

W. E. Hanner
Speaker House of Delegates

The within *approved* this the *20th*
day of *March*, 1953.

William C. Macland
Governor



FILED IN THE OFFICE OF THE SECRETARY OF STATE
OF VIRGINIA **MAR 20 1953**

D. PITT O'BRIEN,
SECRETARY OF STATE