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.; 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 necessary, in excess of one cent, but not in excess of three and one-half cents so as to meet the estimated expenditures of the boards of trustees of the respective funds, for the firemen's pension or relief fund and a like levy on all real and personal property as listed for taxation in such municipality, for a policemen's pension fund: Provided, That in any city or municipality of eight thousand three hundred population or less the laying of the levies herein provided for shall be within the discretion of the common 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 municipality; and such levies shall supersede and if necessary exclude levies for other purposes if such priority or exclusion is necessary under limitation upon taxes or tax levies imposed by law.

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

In addition to all other sums provided for pensions in this section, it shall be the duty of every municipal corporation to assess and collect from each member of such fire department and police department each month, the sum of three per cent of the monthly basic pay of such fire or police department, that is, the monthly basic pay for all equally and regardless of rank or position of the member of such department and so that the amount of such deduction shall be the same for all members of such
fire department and the same for all members of such police department, which amount so to be deducted shall 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 policeman.

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 reenters 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 department 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,
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
to reaching the age of fifty years if he is otherwise eligible
hereunder.

Any member of a municipal fire or police department,
upon reaching the age of sixty-five years shall be retired
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
department. When a member of the fire or police depart-
ment 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 article becomes effective to furnish the said
necessary 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 executive 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 article becomes effective. The amount of pension such members shall receive shall 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 dollars 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 termination of hostilities with Japan, and who has not been dishonorably 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 reenlist 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 article 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 department 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.

The provisions of this section shall apply to all persons 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
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 receive 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.

The dependent wife, child or children, or dependent father or mother, brothers or sisters of any such municipal
employee, who at the time this section takes effect is receiving any pension, payment or benefit from the firemen's or policemen's pension or relief funds, shall receive a pension as provided in the portion of this section fixing the amount to be paid to such dependents.
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 thirty days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor

On the 20th day of March, 1953

D. Pitt O'Brien, Secretary of State