WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 207

(By Mr. WHITE, JR. HAUPT)

PASSED Feb 27 1959

In Effect July 1, 1959 Passage

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JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

House Bill No. 207
(By Mr. White and Mr. Seibert)

(Passed February 27, 1959; in effect July 1, 1959.)

AN ACT to amend and reenact sections fourteen, fourteen-a, 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 pensions or relief funds, prescribing for the assessment of taxes and contributions from salaries to maintain such funds, collections of arrest fees for policemen's pension or relief fund, and providing for the payment of retirement and other pensions to members of such departments and their dependents.

Be it enacted by the Legislature of West Virginia:

That sections fourteen, fourteen-a, 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 provision, a tax at such rate as will, after crediting all interest, if any, to be received in such year from the investments of the respective boards, provide funds equal to the sum of (1) the full amount of estimated expenditures of the boards of trustees of the respective funds and (2) an additional amount equal to ten per cent of such estimated expenditures, said ten per cent amount to be taken, accumulated and invested, if possible, as surplus reserve: *Provided, however,* That in no event shall such levy for each of the respective boards of trustees be less than one cent nor more than three and one-half cents on each one hundred dollars of all real and personal
property as listed for taxation in such municipality: 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 of exclusion is necessary under limitations 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 corp-
oration to assess and collect from each member of such fire department and police department each month, the sum of four per cent of the actual salary or compensation of such member; 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, unless any such member of a municipal fire or police department repays to the pension fund all sums refunded to him within one year from the date he reenters the department with interest at the rate of six per cent per annum, and provided further that any member who, at the time of this amendment becomes effective, has already reentered the department,
shall be allowed credit for any former service upon repaying all sums withdrawn or refunded to him within one year from the date this amendment becomes effective with interest at the rate of six per cent per annum, but in no case shall interest be charged for more than three years.

Sec. 14-a. When Arrest Fee to Be Collected for Municipal Policemen's Pension or Relief Fund.—In cases of the conviction for violation of any municipal ordinance or any state law of any person arrested by any member of the police department of any municipality having a policemen's pension or relief fund, or of the forfeiture of bail not vacated after arrest for violation of any municipal ordinance or any state law by any person so arrested, whether the conviction or forfeiture be in the court of a justice of the peace, or police court judge, or of the mayor of a municipality, or of any other court of criminal jurisdiction, an arrest fee of one dollar shall be taxed as part of the costs, in addition to other fees authorized by law, and shall be collected from the person convicted or furnishing bail, and such arrest fee shall be paid into the policemen's pension or relief fund.
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 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 an annual pension, payable in twelve monthly installments for each year of the remainder of his life, in an amount equal to fifty per cent of such member's average annual salary or compensation received during the five fiscal years in which such member received his highest compensation while a member of the department, or an amount of one hundred fifty dollars per month, whichever shall be greater; and any member of such department who is entitled to 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
aforesaid pension authorized to be paid upon retirement
after twenty years of service and reaching the age of fifty
years, receive an additional sum per month during the re-
mainder of his life, equal to one per cent of such average
monthly salary for each year of the first five additional
years served with the department in excess of the said
twenty 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,
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 cer-
tificate 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 department 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 member shall receive shall depend upon their length of service as herein provided. Such member need not have served twenty years
to be eligible to receive the pension hereinabove prescribed.

The sum to be paid to each permanently disabled member shall be equal to fifty per cent of the salary being received by such member, at the time he is so disabled, or an amount of one hundred fifty dollars per month, whichever shall be greater: Provided however, That any member who is permanently disabled, after having served twenty years in such department, and, who has attained the age of fifty years, shall be entitled to such sum as shall equal fifty per cent of such member's average salary during the five fiscal years in which he received his highest compensation while a member of the department, and also the additional sum per month equal to one per cent of such average monthly salary for each year of the first five years served in excess of said twenty years, or a total amount of one hundred fifty dollars per month, whichever shall be greater.

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
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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 the 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 depart-

ment 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 depart-

ment, and was declared mentally and physically capable of performing his entire duties as a member of the depart-

ment 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 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.

Any member or former member of a fire or police department, who at the time this section takes effect is receiving any pension, payment or benefit from the fire-
men's or policemen's pension or relief funds, shall con-
tinue to receive a pension, payment or benefit, in the
amount of one hundred fifty dollars per month.

Sec. 21. *Payments in Case of Death.*—In case any such
municipal employee who has been in continuous service
for more than five years shall die while in service, leaving
surviving him a dependent wife, or any dependent minor
child or children, or dependent mother and/or father, or
any dependent brothers and/or sisters under the age of
eighteen years, or in case any such former municipal em-
ployee who is receiving or is entitled to receive a pension
under the provisions of this article, or on a disability
basis after he shall have been in continuous service for
more than five years, shall die, leaving surviving him a
dependent wife to whom he was married prior to the date
of his retirement, or any dependent minor child or chil-
dren who were born prior to or within ten months
after such retirement, or dependent mother and/or father,
or any dependent brothers and/or sisters under the age
of eighteen years, then, and in either of such cases the
board of trustees of such pension fund shall pay to or for
each of such entitled surviving dependents the following
pensions, viz: To such dependent widow, until death or
remarriage, a sum per month equal to twenty-five per
cent of the average monthly salary received by such mem-
ber during the five fiscal years in which such member
received his highest compensation, or the sum of seventy-
five dollars per month, whichever shall be greater; to
each such dependent child a sum per month equal to ten
per cent of the average monthly salary received by such
member during the five calendar years in which such
member received his highest compensation, or the sum
of thirty dollars per month for each such child, whichever
shall be greater, until such child shall attain the age of
eighteen years, or marry, whichever first occurs: Pro-
vided, however, That each surviving orphaned child shall
receive a sum of fifteen per cent of the average monthly
salary received by such member during the five fiscal years
in which such member received his highest compensation,
or the sum of forty-five dollars, whichever shall be greater,
until such child shall attain the age of eighteen years, or
marry, whichever occurs first; to each such dependent
mother or father the sum equal to ten per cent of the average monthly salary received by such member during the five fiscal years in which such member received his highest compensation, or the sum of thirty dollars, whichever is greater; to each such dependent brother or sister the sum of five dollars per month until such person shall attain the age of eighteen years, or marry, whichever first occurs, but in no event shall the aggregate amount paid to such 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 of the total amount to be paid all dependents.

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, or any such municipal employee or former 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 fund, shall continue to receive a pension in the following amounts: To a dependent widow, until death or remarriage, the sum of seventy-five dollars per month; to each dependent child the sum of thirty dollars per month, until such child shall attain the age of eighteen years, or marry, whichever first shall occur: Provided, however, That each surviving orphaned child shall receive the sum of forty-five dollars per month, until such child shall attain the age of eighteen years, or marry, whichever first shall occur; to each dependent mother or father the sum of thirty dollars per month; to each dependent brother or sister the sum of five dollars per
month, until such person shall attain the age of eighteen years, or marry, whichever first shall occur, but in no event shall the aggregate amount paid to such 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 payment to the widow and children be cut below sixty per cent of the total amount to be paid to all dependents. Any member of a fire or police department who becomes eligible for retirement for any reason previously defined, between the dates of July first, one thousand nine hundred fifty-nine, and July first, one thousand nine hundred sixty-two, shall receive a pension, payment or benefit in the amount of one hundred fifty dollars per month. As of July first, one thousand nine hundred sixty-two, said retired member shall continue to receive the pension, payment or benefit of one hundred fifty dollars per month or a monthly pension, payment or benefit based upon the percentages
Provided, That any survivor of any member who becomes eligible for pension or survivor benefits between the dates of July first, one thousand nine hundred fifty-nine, and July first, one thousand nine hundred sixty-two, shall receive the amounts as heretofore described, viz: to each surviving widow, seventy-five dollars per month; each surviving child thirty dollars per month; surviving orphan child forty-five dollars per month; dependent father or mother thirty dollars per month; dependent brothers or sisters five dollars per month. As of July first, one thousand nine hundred sixty-two, such survivor shall continue to receive such monthly pension or benefits or a monthly pension or benefit based upon the percentages as heretofore described, whichever shall be greater.

The provisions of this section shall not be construed as creating or establishing any contractual or vested rights in favor of any person who may be or become qualified as a beneficiary of the payments herein authorized to be made, and all the provisions of this article and benefits
provided for hereunder being expressly subject to such subsequent legislative enactments as may provide for any change, modification or elimination of the beneficiaries or benefits specified herein.
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, 1959.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 11th day of March, 1959.

Governor