WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1978

ENROLLED

HOUSE BILL No. 1005

(By Mr. Speaker, Mr. Kopp)

PASSED February 28, 1978

In Effect July 1, 1978

Passage
AN ACT to amend and reenact sections nineteen, twenty-two and twenty-six, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to municipal retirement benefits; policemen's pension and relief fund; firemen's pension and relief fund; levy to maintain funds; investment of funds by trustees; judgment in investments, actuarial studies; annual reports and death benefits to members.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

§8-22-19. Levy to maintain fund; gifts, etc.; assessments on members of departments; return of assessments.

1. In every municipality in which there is a policemen's pension and relief fund or a firemen's pension and relief fund, or both, the same shall be maintained as follows: The governing body of the 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 (a) the amount of the contributions received during such year from the members of the respective paid police department or paid fire department, and (b) in the case of the policemen's pension and relief fund, the arrest fee of one dollar as provided for in section twenty of this article, 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 percent of such estimated expenditures, said ten percent amount to be taken, accumulated and invested, if possible, as surplus reserve: Provided, That in no event shall such levy for each of the respective boards of trustees be less than one cent nor more than eight cents on each one hundred dollars of all real and personal property as listed for taxation in such municipality.

The levies authorized under the provisions of this section, or any part of them, may by the 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 limitations upon taxes or tax levies imposed by law.

Such public 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 expenditures 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 municipality in which any such fund or funds have been or shall be established to assess and collect from each member of the paid police department or paid fire department or both each month, the sum of six percent of the actual salary or compensation of such member; and the amount so collected shall become a regular part of the policemen's pension and relief fund, if
collected from a policeman, and of the fireman's pension and relief fund, if collected from a fireman.

Any member of a paid police or fire department who is removed or discharged or who before retirement on any retirement pension or disability pension severs his connection with said department, provided he has served two full years or more, whether or not consecutive, shall, upon request, be refunded all pension and relief fund deductions made from his salary or compensation, but without interest. In the 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 paid police or fire department repays to the pension and relief fund all sums refunded to him within one year from the date he reenters the department with interest at the rate of six percent per annum: Provided, That any member who, on or before June three, one thousand nine hundred fifty-five, reentered the paid police or fire department shall be allowed credit for any former service in the same department reentered if he within one year from said June three, one thousand nine hundred fifty-five, repaid all sums withdrawn or refunded to him with interest at the rate of six percent per annum, but in no case shall interest be charged for more than three years. Any probationary member of a paid police or fire department who is not given an absolute appointment at the end of his probationary period shall, upon request, be refunded all pension and relief fund deductions made from his salary or compensation, but without interest.

§8-22-22. Investment of funds; exercise of judgment in making investments; actuarial studies required; annual report.

The board of trustees shall invest any moneys received by it in the following classes of securities and accounts and not otherwise, which securities and accounts mature on such dates as will make available such amount of cash as is required:

(a) Obligations of the United States or any agency thereof, which are guaranteed by the United States or for which the full faith and credit of the United States is pledged for the payment of principal and interest, or any obligation of an
agency of the United States designated in section nine, article six, chapter twelve of this code.

(b) Certificates of deposit secured by (1) obligations as listed in subdivision (a) of this section, (2) general obligation or revenue bonds of the state of West Virginia, (3) general obligation bonds of any other state, (4) general obligation bonds of any county in this state or of any county board of education in this state, or (5) general obligation bonds of any municipality in this state.

(c) Interest bearing savings accounts or certificates of deposit in banking institutions, the accounts of which are insured by the federal deposit insurance corporation, or interest bearing savings accounts in federal savings and loan associations, the accounts of which are insured by the federal savings and loan insurance corporation, or interest bearing savings accounts in building and loan associations, the accounts of which are insured by the federal savings and loan insurance corporation: Provided, That an investment in any such savings account in excess of the amount thereof which would be insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation, as the case may be, shall not be made unless such banking institution, federal savings and loan association or building and loan association provides adequate bond or other adequate security for the amount of the proposed municipal investment in excess of such insurance coverage, the adequacy of any such bond or other security to be determined by the treasurer of such municipality.

(d) Any security that is secured by a first lien deed of trust or mortgage on real property situate within this state: Provided, That the value of the securing of first lien deed of trust or mortgage shall be at least twice the amount loaned thereon, based on a sound appraisal by a competent appraiser and duly certified by him or federally insured: Provided, however, That the interest for such loan of money at a rate expressed in terms of dollars upon one hundred dollars for a year, shall be not less than the monthly index of long-term government bonds yields for the second preceding calendar month plus an additional one percent
a year rounded off to the nearest quarter of one percent a year.

Any investment made under this article shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of experience, prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The board of trustees shall cause an actuarial study of the fund to be completed before the first day of July, one thousand nine hundred seventy-nine, and each eight years thereafter:

Provided, That any board which has caused an actuarial study of such fund to be completed within four years prior to the effective date of the article shall be required to have its next actuarial study completed before the first day of July, one thousand nine hundred eighty-four. The actuarial study shall be performed by an actuary who is a member of the society of actuaries.

The board of trustees shall make a report to the governing body of the municipality on the condition of its fund on the thirty-first day of December of each year.


(a) In case:

(1) Any member of a paid police or fire department who has been in continuous service for more than five years dies, from any cause other than as specified in subsection (b) of this section before retirement on a disability pension under the provisions of section twenty-four of this article or a retirement pension under the provisions of subsection (a) or both subsections (a) and (b) of section twenty-five of this article, leaving in either case surviving a dependent spouse, or any dependent child or children under the age of eighteen years, or dependent father or mother or both, or any dependent brothers or sisters or both under the age of eighteen years; or

(2) Any former member of any such department who is on a disability pension under the provisions of section twenty-
four of this article, or has attained the age of fifty years and is
receiving or is entitled to receive retirement pension benefits
under the provisions of subsection (a) or both subsections
(a) and (b) of section twenty-five of this article, shall die,
from any cause other than as specified in subsection (b) of
this section leaving in either case surviving a dependent spouse
to whom the marriage took place prior to the date of such
member's retirement on a disability pension or a retirement
pension, or any dependent child or children under the age
of eighteen years who were born prior to or within ten
months after the date of such member's retirement on a
disability pension or a retirement pension, or dependent
father or mother or both, or any dependent brothers or
sisters or both under the age of eighteen years; or

(3) Any former member of any such department who has
retired under the provisions of subsection (a) or both
 subsections (a) and (b) of section twenty-five of this article,
shall die before attaining the age of fifty years, from any
cause other than as specified in subsection (b) of this section
leaving surviving a dependent spouse, or any dependent child
or children under the age of eighteen years, or dependent father
or mother or both, or any dependent brothers or sisters or both
under the age of eighteen years; then in any of the cases set
forth above in (1), (2) and (3), the board of trustees of such
pension and relief fund shall, immediately following the
death of such member, pay to or for each of such entitled
surviving dependents the following pension benefits, viz.: To
such dependent spouse, until death or remarriage, a sum per
month equal to thirty percent of such member's average
monthly salary or compensation received during the three
fiscal years, not necessarily consecutive, in which such mem-
ber received his highest salary or compensation while a
member of the department, hereinafter for convenience re-
ferred to in this section as "monthly average," or an amount
of one hundred dollars per month, whichever shall be greater;
to each such dependent child a sum per month equal to
ten percent of such monthly average, 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; to each such dependent
orphaned child a sum per month equal to fifteen percent of
such monthly average, or the sum of forty-five 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; to each such dependent father or
mother a sum per month for each equal to ten percent of
such monthly average, or the sum of thirty dollars per month
for each such father and mother, whichever shall be greater;
to each such dependent brother or sister the sum of five
dollars per month until such individual 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,
That in no case shall the payments to the surviving spouse
and children be cut below sixty-five percent of the total
amount to be paid to all dependents.

(b) The dependent spouse, child or children, or dependent
father or mother, or dependent brothers or sisters, of any such
member who shall die by reason of service rendered in the
performance of such member's duties shall, regardless of the
length of such member's service and irrespective of whether
such member was or was not entitled to receive or was not
receiving a disability pension or temporary disability pay-
ments at the time of his death, receive the death benefits
provided for in subsection (a) of this section, and if such
member had less than three years' service at the time of his
death, the monthly average shall be computed on the basis
of the actual number of years of service.

(c) The provisions of this section shall not be construed
as creating or establishing any contractual or vested rights
in favor of any individual who may be or become qualified
as a beneficiary of the death benefits herein authorized to be
made, all the provisions hereof and benefits provided for
hereunder being expressly subject to such subsequent legisla-
tive 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.

James L. Davis  
Chairman Senate Committee

Clarence L. Chambers  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1978.

C.A. Blankenship  
Clerk of the House of Delegates

W.T. Battle  
President of the Senate

Donald L. Wopp  
Speaker House of Delegates

The within is approved this the 11 day of March, 1978.

Governor
APPROVED AND SIGNED BY THE GOVERNOR

Date: March 11, 1978
Time: 11:30 A.M.

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OFFICE OF THE GOVERNOR