WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED
SENATE BILL NO. 256

(By Mr. Bratcher, Mr. President, et al.)

PASSED March 5, 1980

In Effect July 1, 1980
AN ACT to amend and reenact sections sixteen and nineteen, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to providing for municipalities to increase the contributions and payroll deduction, if necessary in fiscal year one thousand nine hundred eighty-one thousand nine hundred eighty-one, to maintain full retirement benefits for such fiscal year and to specified maximums, to supplement municipal firemen's and policemen's pension funds.

Be it enacted by the Legislature of West Virginia:

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

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

PART III. POLICEMEN'S PENSION AND RELIEF FUND;
FIREFMEN'S PENSION AND RELIEF FUND.

§8-22-16. Pension and relief funds for policemen and firemen; creation of boards of trustees; definitions; continuance of funds.

1 In every Class I and Class II city having, or which
2 may hereafter have, a paid police department and a paid
fire department, or either of such departments, the gov-
erning body shall, and in every Class III city and Class
IV town or village having, or which may hereafter have,
a paid police department and a paid fire department, or
either of such departments, the governing body may,
by ordinance provide for the establishment and main-
tenance of a policemen's pension and relief fund, and for
a firemen's pension and relief fund, for the purposes
hereinafter enumerated, and, thereupon, there shall be
created boards of trustees which shall administer and
distribute the moneys authorized to be raised by this
section and the following sections of this article. For
the purposes of this section and sections seventeen
through twenty-eight of this article, the term "paid police
department" or "paid fire department" shall be taken
to mean only a municipal police department or municipal
fire department, as the case may be, maintained and
paid for out of public funds and whose employees are
paid on a fulltime basis out of public funds. The term
shall not be taken to mean any such department whose
employees are paid nominal salaries or wages or are
only paid for services actually rendered on an hourly
basis.

Unless and until other provision is made by subsequent
legislative action, any policemen's pension and relief
fund and any firemen's pension and relief fund estab-
lished in accordance with the provisions of former article
six of this chapter or this article twenty-two shall be or
remain mandatory and shall be governed by the provi-
sions of sections sixteen through twenty-eight of this
article twenty-two (with like effect, in the case of a
Class III city or Class IV town or village, as if such Class
III city or Class IV town or village were a Class I or
Class II city), and shall not be affected by the transition
from one class of municipal corporation to a lower class
as specified in section three, article one of this chapter;
Provided, That any Class III or Class IV town or village
that hereafter becomes a Class I or Class II city shall
not be required to establish such pension and relief fund
if said town or village is a participant in an existing pen-
sion plan regarding paid firemen and/or policemen.
§8-22-19. Levy to maintain fund; gifts, etc.; assessments on members of departments; return of assessments.

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: Provided, however, That in the event that the funds derived above are not sufficient to meet the annual expenditures and the surplus reserve funds for fiscal year one thousand nine hundred eighty—one thousand nine hundred eighty-one do not contain a sufficient balance to maintain full retirement benefits for the fiscal year one thousand nine hundred eighty—one thousand nine hundred eighty-one, the municipality shall for only the fiscal year one thousand nine hundred eighty—one thousand nine hundred eighty-one levy an amount not to exceed an additional two cents on each one hundred dollars of all real and personal property listed for taxation in such municipality: Provided further, That in the event that a municipality is required to levy an amount for the fiscal year one thousand nine hundred eighty—one thousand nine hundred eighty-one in excess
of eight cents on each one hundred dollars of all real and personal property as provided above, the municipality shall assess and collect for only the fiscal year one thousand nine hundred eighty—one thousand nine hundred eighty—one from each member an additional amount of one percent of the actual salary or compensation for each one cent that the municipality has levied in excess of the eight cents which shall become a required part of the pension and relief fund to which the member belongs.

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 firemen’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
80 deductions made from his salary or compensation, but
81 without interest. In the event such refund is made and
82 such member subsequently reenters the department no
83 credit shall be allowed him for any former service,
84 unless any such member of a paid police or fire depart-
85 ment repays to the pension and relief fund all sums re-
86 funded to him within one year from the date he reenters
87 the department with interest at the rate of six percent
88 per annum: Provided, That any member who, on or be-
89 fore June three, one thousand nine hundred fifty-five,
90 reentered the paid police or fire department shall be
91 allowed credit for any former service in the same de-
92 partment reentered if he, within one year from said
93 June three, one thousand nine hundred fifty-five, repaid
94 all sums withdrawn or refunded to him with interest at
95 the rate of six percent per annum, but in no case shall
96 interest be charged for more than three years. Any
97 probationary member of a paid police or fire department
98 who is not given an absolute appointment at the end of
99 his probationary period shall, upon request, be refunded
100 all pension and relief fund deductions made from his
101 salary or compensation, but without interest.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James A. Davis  
Chairman Senate Committee

Clarence L. Chastain  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1980.

Jesse C. Will  
Clerk of the Senate

A Blankenship  
Clerk of the House of Delegates

J. C. Birdwell  
President of the Senate

J. M. Locke  
Speaker House of Delegates

The within ___________ this the ________ day of ________, 1980.

[Signature]
Governor