

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-21-80

Time 9:30 A.M.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

SENATE BILL NO. 256

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

PASSED March 5, 1980

In Effect July 1, 1980 ~~Passage~~

710: 256

ENROLLED
Senate Bill No. 256

(By MR. BROTHERTON, MR. PRESIDENT, and MR. GALPERIN)

[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; FIREMEN'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;
FIREMEN'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

3 fire department, or either of such departments, the gov-
4 erning body shall, and in every Class III city and Class
5 IV town or village having, or which may hereafter have,
6 a paid police department and a paid fire department, or
7 either of such departments, the governing body may,
8 by ordinance provide for the establishment and main-
9 tenance of a policemen's pension and relief fund, and for
10 a firemen's pension and relief fund, for the purposes
11 hereinafter enumerated, and, thereupon, there shall be
12 created boards of trustees which shall administer and
13 distribute the moneys authorized to be raised by this
14 section and the following sections of this article. For
15 the purposes of this section and sections seventeen
16 through twenty-eight of this article, the term "paid police
17 department" or "paid fire department" shall be taken
18 to mean only a municipal police department or municipal
19 fire department, as the case may be, maintained and
20 paid for out of public funds and whose employees are
21 paid on a fulltime basis out of public funds. The term
22 shall not be taken to mean any such department whose
23 employees are paid nominal salaries or wages or are
24 only paid for services actually rendered on an hourly
25 basis.

26 Unless and until other provision is made by subsequent
27 legislative action, any policemen's pension and relief
28 fund and any firemen's pension and relief fund estab-
29 lished in accordance with the provisions of former article
30 six of this chapter or this article twenty-two **shall be or**
31 remain mandatory and shall be governed by the provi-
32 sions of sections sixteen through twenty-eight of this
33 article twenty-two (with like effect, in the case of a
34 Class III city or Class IV town or village, as if such Class
35 III city or Class IV town or village were a Class I or
36 Class II city), and shall not be affected by the transition
37 from one class of municipal corporation to a lower class
38 as specified in section three, article one of this chapter:
39 *Provided*, That any Class III or Class IV town or village
40 that hereafter becomes a Class I or Class II city shall
41 not be required to establish such pension and relief fund
42 if said town or village is a participant in an existing pen-
43 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.

1 In every municipality in which there is a policemen's
2 pension and relief fund or a firemen's pension and relief
3 fund, or both, the same shall be maintained as follows:
4 The governing body of the municipality shall levy an-
5 nually and in the manner provided by law for other
6 municipal levies, and include within the maximum levy
7 or levies permitted by law, and if necessary in excess
8 of any charter provision, a tax at such rate as will, after
9 crediting (a) the amount of the contributions received
10 during such year from the members of the respective
11 paid police department or paid fire department, and (b)
12 in the case of the policemen's pension and relief fund, the
13 arrest fee of one dollar as provided for in section twenty
14 of this article, provide funds equal to the sum of (1) the
15 full amount of estimated expenditures of the boards of
16 trustees of the respective funds, and (2) an additional
17 amount equal to ten percent of such estimated expendi-
18 tures, said ten percent amount to be taken, accumulated
19 and invested, if possible, as surplus reserve: *Provided*,
20 That in no event shall such levy for each of the respec-
21 tive boards of trustees be less than one cent nor more
22 than eight cents on each one hundred dollars of all real
23 and personal property as listed for taxation in such
24 municipality: *Provided, however*, That in the event that
25 the funds derived above are not sufficient to meet the
26 annual expenditures and the surplus reserve funds for
27 fiscal year one thousand nine hundred eighty—one
28 thousand nine hundred eighty-one do not contain a
29 sufficient balance to maintain full retirement benefits
30 for the fiscal year one thousand nine hundred eighty—
31 one thousand nine hundred eighty-one, the municipality
32 shall for only the fiscal year one thousand nine hundred
33 eighty—one thousand nine hundred eighty-one levy an
34 amount not to exceed an additional two cents on each
35 one hundred dollars of all real and personal property
36 listed for taxation in such municipality: *Provided further*,
37 That in the event that a municipality is required to levy
38 an amount for the fiscal year one thousand nine hundred
39 eighty—one thousand nine hundred eighty-one in excess

40 of eight cents on each one hundred dollars of all real and
41 personal property as provided above, the municipality
42 shall assess and collect for only the fiscal year one
43 thousand nine hundred eighty—one thousand nine hun-
44 dred eighty-one from each member an additional amount
45 of one percent of the actual salary or compensation for
46 each one cent that the municipality has levied in excess
47 of the eight cents which shall become a required part
48 of the pension and relief fund to which the member
49 belongs.

50 The levies authorized under the provisions of this sec-
51 tion, or any part of them, may by the governing body
52 be laid in addition to all other municipal levies, and to
53 that extent, beyond the limit of levy imposed by the
54 charter of such municipality; and such levies shall super-
55 sede and if necessary exclude levies for other purposes
56 if such priority or exclusion is necessary under limita-
57 tions upon taxes or tax levies imposed by law.

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

63 In addition to all other sums provided for pensions in
64 this section, it shall be the duty of every municipality in
65 which any such fund or funds have been or shall be
66 established to assess and collect from each member of
67 the paid police department or paid fire department or
68 both each month, the sum of six percent of the actual
69 salary or compensation of such member; and the amount
70 so collected shall become a regular part of the policemen's
71 pension and relief fund, if collected from a policeman,
72 and of the firemen's pension and relief fund, if collected
73 from a fireman.

74 Any member of a paid police or fire department who
75 is removed or discharged or who before retirement on
76 any retirement pension or disability pension severs his
77 connection with said department, provided he has served
78 two full years or more, whether or not consecutive, shall,
79 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 L. Davis
Chairman Senate Committee

Lawrence C. Christensen
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1980.

Arvid C. Mills
Clerk of the Senate

Cl Blankinship
Clerk of the House of Delegates

W. C. Bickerton
President of the Senate

John M. Lee
Speaker House of Delegates

The within *is approved* this the *21*
day of *March* 1980.

John R. Ragsdale
Governor



RECEIVED

MAR 14 2 04 PM '80

OFFICE OF THE GOVERNOR

RECEIVED

30 MAR 21 P4:06

OFFICE
OF THE GOVERNOR
STATE