

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time _____

No. 1679

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981

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OFFICE
SECY. OF STATE

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 1679

(By Mr. Farley & Mr. Doff)

— ● —

Passed April 9, 1981

In Effect Ninety Days From Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1679

(By MR. FARLEY and MR. GOFF)

[Passed April 9, 1981; in effect ninety days from passage.]

AN ACT to repeal section twenty, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to arrest fees collected for municipal policemen's pension and relief funds and to enact in lieu thereof a new section twenty of said article, relating to minimum standards for actuarial soundness; to amend and reenact sections sixteen, seventeen, nineteen, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight of said article; to further amend said article by adding thereto two new sections, designated sections nineteen-a and twenty-three-a, to amend and reenact section eleven, article fourteen of said chapter eight; to amend and reenact section sixteen, article fifteen of said chapter eight, to further amend said article fifteen by adding thereto two new sections, designated sections eight-a and eight-b; to amend and reenact section two, article six, chapter twelve of said code; to amend article three, chapter thirty-three of said code by adding thereto a new section, designated section fourteen-d, and to amend article twelve, chapter thirty-three of said code by adding thereto a new section, designated section sixteen-a, all relating to policemen's and firemen's pension and relief funds; requiring all applicants for positions in a

paid police department or a paid fire department to meet certain medical requirements; providing eligibility requirements for volunteer fire departments to receive funds from the municipal pensions and protection fund and priorities for their spending of such funds; defining certain terms; declaring the board of trustees of policemen's and firemen's pension and relief funds as fiduciaries of such funds; providing a new method of funding policemen's and firemen's pension and relief funds to begin at a designated time including an allocable portion of the municipal pensions and protection fund and increased contributions by members; requiring repayment to the respective funds by a member wishing to rejoin; providing minimum standards for actuarial soundness; requiring the treasurer of the funds to keep necessary data and to act as a fiduciary for the funds; allowing the funds to be invested in the state consolidated fund or the consolidated pension fund; setting eligibility standards for total and temporary, and total and permanent, disability pensions; providing the amount of such disability pensions; making certain adjustments to computing retirement pensions and death benefits; limiting credit for absence from service and military service; levying additional fire and casualty insurance premium taxes for the municipal pensions and protection fund and providing a method of allocating moneys in such fund.

Be it enacted by the Legislature of West Virginia:

That section twenty, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new section twenty of said article be enacted in lieu thereof, that sections sixteen, seventeen, nineteen, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight of said article be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections nineteen-a and twenty-three-a; that section eleven, article fourteen of said chapter eight be amended and reenacted; that section sixteen, article fifteen of said chapter eight be amended and reenacted; that said article fifteen be further amended by adding thereto two new sections, designated sections eight-a and eight-b; that section two, article six, chapter twelve of said code be amended and reenacted; that article three, chapter thirty-three of said code be amended by adding thereto a new section, designated section fourteen-d, and that

article twelve, chapter thirty-three of said code be amended by adding thereto a new section, designated section sixteen-a, all to read as follows:

CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES AND COUNTIES; INTERGOVERNMENTAL RELATIONS.

ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS, AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING BUILDING POLICE OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.

§8-14-11. Rules and regulations for all examinations; probationary appointments.

1 The policemen's civil service commission in each Class I
2 and Class II city shall make rules and regulations providing
3 for both competitive and medical examinations for appoint-
4 ments and promotions to all positions in the paid police de-
5 partment in such city, and for such other matters as are nec-
6 essary to carry out the purposes of the civil service provisions
7 of this article. Any such commission shall have the power and
8 authority to require by rules and regulations a physical fitness
9 examination as a part of its competitive examination or as a
10 part of its medical examination: *Provided*, That after the
11 thirtieth day of June, one thousand nine hundred eighty-one,
12 the medical requirements for appointment to all positions in
13 the paid police department in such city shall include, but not
14 be limited to, the medical requirements stated in section six-
15 teen, article twenty-two of this chapter. Due notice of the
16 contents of all such rules and regulations and of any modifi-
17 cations thereof shall be given, by mail, in due season, to the
18 appointing officer; and said rules and regulations and any
19 modifications thereof shall also be printed for public distri-
20 bution. All original appointments to any positions in a paid
21 police department subject to the civil service provisions of this
22 article shall be for a probationary period of one year: *Pro-*
23 *vided*, That at any time during the probationary period the
24 probationer may be discharged for just cause, in the manner
25 provided in section twenty of this article. If, at the close of this

26 probationary term, the conduct or capacity of the probationer
27 has not been satisfactory to the appointing officer, the pro-
28 bationer shall be notified, in writing, that he will not receive
29 absolute appointment, whereupon his employment shall cease;
30 otherwise, his retention in the service shall be equivalent to his
31 final appointment.

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPART-
MENT; CIVIL SERVICE FOR PAID FIRE DEPART-
MENTS.**

**§8-15-8a. Eligibility for allocation from municipal pensions and
protection fund.**

1 In order to be eligible to receive revenues allocated from
2 the municipal pensions and protection fund, each volunteer or
3 part volunteer fire company or department must meet the re-
4 quirements listed in subsections (a) through (c) of this section.

5 Each volunteer or part volunteer fire company or depart-
6 ment must:

7 (a) Submit and maintain current submission of fire loss
8 data to the state fire marshal, including verification via notary
9 public, if no fire loss has occurred;

10 (b) Complete or be in the process of receiving firefighters
11 training, including section one of the West Virginia University
12 fire service extension or its equivalent. Such fire company or
13 department must have at least ten members certified having
14 completed such training or if a volunteer fire company or de-
15 partment has twenty or fewer members, fifty percent of the
16 active volunteer members must have completed such training;
17 and

18 (c) Comply with all applicable federal and state laws.

**§8-15-8b. Priorities for expenditures of revenues from the municipal
pensions and protection fund.**

1 Revenues allocated to volunteer and part volunteer fire com-
2 panies and departments may be expended only for the priority
3 items listed in subsections (a) through (d) of this section. Such
4 expenditures may be made for the following:

5 (a) Personal protective equipment, including protective

6 head gear, bunker coats, pants, boots, combination of bunker
7 pants and boots, coats and gloves;

8 (b) Equipment for compliance with the national fire pro-
9 tection standard or automotive fire apparatus, NFPA-1901;

10 (c) Compliance with insurance service office recommenda-
11 tions relating to fire departments; and

12 (d) Rescue equipment, communications equipment and am-
13 bulance equipment: *Provided*, That no moneys received from
14 the municipal pensions and protection fund may be used for
15 capital improvements, retirement of debts or equipment for
16 personal vehicles owned or operated by volunteer fire com-
17 pany or department members.

**§8-15-16. Rules and regulations for all examinations; probationary
appointments.**

1 The firemen's civil service commission in each municipality
2 shall make rules and regulations providing for both competitive
3 and medical examinations for appointments and promotions to
4 all positions in the paid fire department in such municipality,
5 and for such other matters as are necessary to carry out the
6 purposes of the civil service provisions of this article. Any
7 such commission shall have the power and authority to require
8 by rules and regulations a physical fitness examination as a
9 part of its competitive examination or as a part of its medical
10 examination: *Provided*, That after the thirtieth day of June,
11 one thousand nine hundred eighty-one, the medical require-
12 ments for appointment to all positions in the paid fire depart-
13 ment in such municipality shall include, but not be limited to,
14 the medical requirements stated in section sixteen, article
15 twenty-two of this chapter. Due notice of the contents of such
16 rules and regulations and of any modifications thereof shall
17 be given, by mail, in due season, to the appointing officer; and
18 said rules and regulations and any modifications thereof shall
19 also be printed for public distribution. All original appoint-
20 ments to any positions in a paid fire department subject to the
21 civil service provisions of this article shall be for a probationary
22 period of six months: *Provided*, That at any time during the
23 probationary period the probationer may be discharged for
24 just cause, in the manner provided in section twenty-five of

25 this article. If, at the close of this probationary term, the con-
26 duct or capacity of the probationer has not been satisfactory
27 to the appointing officer, the probationer shall be notified, in
28 writing, that he will not receive absolute appointment, whereup-
29 on his employment shall cease; otherwise, his retention in the
30 service shall be equivalent to his final appointment.

**ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S
PENSION AND RELIEF FUND; FIREMEN'S PENSION
AND RELIEF FUND; PENSION PLANS FOR EM-
PLOYEES OF WATERWORKS SYSTEM, SEWERAGE
SYSTEM OR COMBINED WATERWORKS AND SEW-
ERAGE 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 may
2 hereafter have, a paid police department and a paid fire de-
3 partment, or either of such departments, the governing body
4 shall, and in every Class III city and Class IV town or
5 village having, or which may hereafter have, a paid police
6 department and a paid fire department, or either of such de-
7 partments, the governing body may, by ordinance provide for
8 the establishment and maintenance of a policemen's pension
9 and relief fund, and for a firemen's pension and relief fund,
10 for the purposes hereinafter enumerated, and, thereupon, there
11 shall be created boards of trustees which shall administer and
12 distribute the moneys authorized to be raised by this section
13 and the following sections of this article. For the purposes of
14 this section and sections seventeen through twenty-eight of
15 this article, the term "paid police department" or "paid fire
16 department" means only a municipal police department or
17 municipal fire department, as the case may be, maintained and
18 paid for out of public funds and whose employees are paid
19 on a full-time basis out of public funds. The term shall not be
20 taken to mean any such department whose employees are paid
21 nominal salaries or wages or are only paid for services actually
22 rendered on an hourly basis.

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

40 After the thirtieth day of June, one thousand nine hundred
41 eighty-one, for the purposes of sections sixteen through
42 twenty-eight of this article the word "member" means any paid
43 police officer or firefighter who at time of appointment to such
44 paid police or fire department met the medical requirements
45 of chapter 2-2 of the National Fire Protection Association
46 Standards Number 1001—Firefighters Professional Quali-
47 fications '74 as updated from year to year: *Provided*, That any
48 police officer or firefighter who was a member of such fund
49 prior to the first day of July, one thousand nine hundred
50 eighty-one, shall be considered a member after June thirtieth,
51 one thousand nine hundred eighty-one.

52 For purposes of sections sixteen through twenty-eight of this
53 article the words "salary or compensation" means remunera-
54 tion actually received by a member: *Provided*, That the
55 remuneration received by such member during any twelve-
56 consecutive month period utilized in determining benefits
57 which is in excess of an amount which is twenty percent great-
58 er than the "average adjusted salary" received by such mem-
59 ber in the two consecutive twelve-consecutive-month periods
60 immediately preceding such twelve-consecutive-month period
61 utilized in determining benefits shall be disregarded: *Provided*,

62 *however*, That the “average adjusted salary” means the arith-
63 metic average of each year’s adjusted salary such adjustment
64 made to reflect current salary rate and such average adjusted
65 salary shall be determined as follows: Assuming “year-one”
66 means the second twelve-consecutive-month period preceding
67 such twelve-consecutive-month period utilized in determining
68 benefits, “year-two” means the twelve-consecutive-month per-
69 iod immediately preceding such twelve-consecutive-month per-
70 iod utilized in determining benefits, and “year-three” means
71 the twelve-consecutive-month period utilized in determining
72 benefits, year-one total remuneration shall be multiplied by
73 the ratio of year-three base salary, exclusive of all overtime
74 and other remuneration, to year-one base salary, exclusive of
75 all overtime and other remuneration, such product shall equal
76 “year-one adjusted salary”; year-two total remuneration shall
77 be multiplied by the ratio of year-three base salary, exclusive
78 of all overtime and other remuneration, to year-two base salary,
79 exclusive of all overtime and other remuneration, such pro-
80 duct shall equal “year-two adjusted salary”; and the arithme-
81 tic average of year-one adjusted salary and year-two adjusted
82 salary shall equal the average adjusted salary.

§8-22-17. Powers and duties of boards of trustees.

1 Such board of trustees, or boards of trustees, shall be public
2 corporations by the name and style of “The Board of Trustees
3 of the Policemen’s Pension and Relief Fund of (name of
4 municipality),” or “The Board of Trustees of the Firemen’s
5 Pension and Relief Fund of (name of municipality),” as the
6 case may be, by which names they may sue and be sued, plead
7 and be impleaded, contract and be contracted with, take and
8 hold real and personal property for the use of said policemen’s
9 pension and relief fund or said firemen’s pension and relief
10 fund and have and use a common seal. In the absence of such
11 a seal, the seal of the president of any such corporation shall be
12 equivalent to such common seal. Any such board of trustees
13 may also in its corporate name do and perform any and all
14 other acts and business pertaining to the trust created hereby
15 or by any conveyance, devise or dedication made for the
16 uses and purposes of said board.

17 After the thirtieth day of June, one thousand nine hundred

18 eighty-one, any such board of trustees, boards of trustees and
 19 any members thereof shall, as fund fiduciaries, discharge their
 20 duties with respect to such pension and relief funds solely in
 21 the interest of the members and members' beneficiaries for the
 22 exclusive purpose of providing benefits to members and their
 23 beneficiaries and defraying reasonable expenses of adminis-
 24 tering the fund.

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

1 (a) The provisions of this subsection shall remain in effect
 2 through the thirtieth day of June, one thousand nine hundred
 3 eighty-three.

4 In every municipality in which there is a policemen's pension
 5 and relief fund or a firemen's pension and relief fund, or both,
 6 the same shall be maintained as follows: The governing body
 7 of the municipality shall levy annually and in the manner pro-
 8 vided by law for other municipal levies, and include within the
 9 maximum levy or levies permitted by law, and if necessary in
 10 excess of any charter provision, a tax at such rate as will, after
 11 crediting (a) the amount of the contributions received during
 12 such year from the members of the respective paid police de-
 13 partment or paid fire department, provide funds equal to the
 14 sum of (1) the full amount of estimated expenditures of the
 15 boards of trustees of the respective funds, and (2) an additional
 16 amount equal to ten percent of such estimated expenditures,
 17 said ten percent amount to be taken, accumulated and invested,
 18 if possible, as surplus reserve: *Provided*, That in no event shall
 19 such levy for each of the respective boards of trustees be less
 20 than one cent or more than eight cents on each one hundred
 21 dollars of all real and personal property as listed for taxation
 22 in such municipality: *Provided, however*, That in the event that
 23 the funds derived above are not sufficient to meet the annual
 24 expenditures and the surplus reserve funds for any fiscal year
 25 do not contain a sufficient balance to maintain full retirement
 26 benefits for that fiscal year, the municipality shall for only
 27 that fiscal year levy an amount not to exceed an additional two
 28 cents on each one hundred dollars of all real and personal
 29 property listed for taxation in such municipality: *Provided*
 30 *further*, That in the event that a municipality is required to

31 levy an amount for any fiscal year in excess of eight cents on
32 each one hundred dollars of all real and personal property as
33 provided above, the municipality shall assess and collect for
34 only that fiscal year from each member an additional amount
35 of one percent of the actual salary or compensation for each
36 one cent that the municipality has levied in excess of the eight
37 cents which shall become a required part of the pension and
38 relief fund to which the member belongs.

39 The levies authorized under the provisions of this section, or
40 any part of them, may by the governing body be laid in addi-
41 tion to all other municipal levies, and to that extent, beyond the
42 limit of levy imposed by the charter of such municipality; and
43 such levies shall supersede and if necessary exclude levies for
44 other purposes if such priority or exclusion is necessary under
45 limitations upon taxes or tax levies imposed by law.

46 Such public corporations are authorized to take by gift,
47 grant, devise or bequest, any money or real or personal prop-
48 erty, upon such terms as to the investment and expenditures
49 thereof as may be fixed by the grantor or determined by said
50 trustees.

51 In addition to all other sums provided for pensions in this
52 section, it shall be the duty of every municipality in which any
53 such fund or funds have been or shall be established to assess
54 and collect from each member of the paid police department
55 or paid fire department or both each month, the sum of six
56 percent of the actual salary or compensation of such member;
57 and the amount so collected shall become a regular part of the
58 policemen's pension and relief fund, if collected from a police-
59 man, and of the firemen's pension and relief fund, if collected
60 from a fireman.

61 (b) After the thirtieth day of June, one thousand nine hun-
62 dred eighty-three: In order for a municipal policemen's or fire-
63 men's pension and relief fund to receive the allocable portion
64 of moneys from the municipal pensions and protection fund
65 established in section fourteen-d, article three, chapter thirty-
66 three of this code, the governing body of the municipality shall
67 levy annually and in the manner provided by law for other
68 municipal levies, and include within the maximum levy or

69 levies permitted by law, and if necessary in excess of any chart-
70 er provision, a tax at such rate as will, after crediting (a) the
71 amount of the contributions received during such year from
72 the members of the respective paid police department or paid
73 fire department and (b) the allocable portion of the municipal
74 pensions and protection fund established in section fourteen-d,
75 article three, chapter thirty-three of this code provide funds
76 equal to the amount necessary to meet the minimum stand-
77 ards for actuarial soundness as provided in section twenty of
78 this article, said amount to be irrevocably contributed, accu-
79 mulated and invested as fund assets described in sections
80 twenty-one and twenty-two of this article. Such municipality
81 contributions shall be deposited as such fund assets on at least
82 a quarterly basis and any revenues received from any source by
83 a municipality which are specifically collected for the purpose
84 of allocation for deposit into such fund shall be so deposited
85 within thirty days of receipt by the municipality. Such hereto-
86 fore surplus reserves accumulated before the first day of July,
87 one thousand nine hundred eighty-three, shall be irrevocably
88 contributed, aggregated and invested as fund assets described
89 in sections twenty-one and twenty-two of this article. Any ac-
90 tuarial deficiency arising under this section and section twenty
91 of this article shall not be the obligation of the state of West
92 Virginia.

93 The levies authorized under the provisions of this section,
94 or any part of them, may by the governing body be laid in addi-
95 tion to all other municipal levies, and to that extent, beyond the
96 limit of levy imposed by the charter of such municipality; and
97 such levies shall supersede and if necessary exclude levies for
98 other purposes, where such other purposes have not already
99 attained priority, and within the limitations upon taxes or tax
100 levies imposed by the constitution and laws.

101 Such public corporations are authorized to take by gift,
102 grant, devise or bequest any money or real or personal prop-
103 erty, upon such terms as to the investment and expenditures
104 thereof as may be fixed by the grantor or determined by said
105 trustees.

106 In addition to all other sums provided for pensions in this
107 section, it shall be the duty of every municipality in which any

108 such fund or funds have been or shall be established to as-
109 sess and collect from each member of the paid police depart-
110 ment or paid fire department or both each month, the sum of
111 seven percent of the actual salary or compensation of such
112 member; and the amount so collected shall become a regular
113 part of the policemen's pension and relief fund, if collected
114 from a policeman, and of the firemen's pension and relief fund,
115 if collected from a fireman. Such member contributions shall
116 be deposited in such pension and relief fund on at least a
117 monthly basis.

118 For the fiscal year beginning on the first day of July, one
119 thousand nine hundred eighty-three and for each fiscal year
120 thereafter, the state treasurer shall retain the allocable portion
121 of the municipal pensions and protection fund, established in
122 section fourteen-d, article three, chapter thirty-three of this
123 code, until such time as the treasurer of the municipality ap-
124 plies for such allocable portion and certifies in writing to the
125 state auditor that:

126 (a) The municipality has irrevocably contributed the amount
127 required under this section and section twenty of this article
128 to such pension and relief fund for the fiscal year; and

129 (b) The board of trustees of such pension and relief fund
130 has made a report to the governing body of the municipality
131 on the condition of its fund with respect to the fiscal year.

132 When the aforementioned application and certification are
133 made the allocable portion of moneys from the municipal pen-
134 sions and protection fund shall be paid to the corresponding
135 policemen's or firemen's pension and relief fund.

136 The state auditor has the power and duty as he deems neces-
137 sary to perform or review audits on such pension and relief
138 funds or to employ an independent consulting actuary or ac-
139 countant to determine the compliance of the aforementioned
140 certification with the requirements of this section and section
141 twenty of this article. The expense of such audit or determina-
142 tion shall be paid from the portion of the municipal pensions
143 and protection fund allocable to municipal policemen's and
144 firemen's pension and relief funds. If such allocable portion of
145 the municipal pensions and protection fund is not paid to such

146 pension and relief fund within thirty-six months, such portion
147 is forfeited by such pension and relief fund and is allocable to
148 other eligible municipal policemen's and firemen's pension and
149 relief funds in accordance with section fourteen-d, article three,
150 chapter thirty-three of this code.

§8-22-19a. Refunds of members contributions.

1 Any member of a paid police or fire department who is re-
2 moved or discharged or who before retirement on any retire-
3 ment pension or disability pension severs his connection with
4 said department, whether or not consecutive, shall, upon re-
5 quest, be refunded all pension and relief fund deductions made
6 from his salary or compensation, but without interest. Any
7 member who receives such refund and such member subse-
8 quently wishes to reenter the department, such police officer or
9 fire fighter shall not be allowed to reenter the department un-
10 less such police officer or firefighter repays to the pension
11 and relief fund all sums refunded to him in a lump sum at the
12 date of reentry or by monthly payroll deductions within thirty-
13 six months from the date he reenters the department with in-
14 terest at the rate of eight percent per annum. In the event such
15 refund is made prior to the first day of January, one thousand
16 nine hundred eighty-one and such member subsequently re-
17 enters the department such police officer or firefighter shall
18 be allowed membership in such pension and relief fund; how-
19 ever, no credit may be allowed such member for any former
20 service, unless such member repays to the pension and relief
21 fund all sums refunded to him within one year from the date
22 he reenters the department with interest at the rate of eight
23 percent per annum: *Provided*, That any member who, on or
24 before June three, one thousand nine hundred fifty-five, re-
25 entered the paid police or fire department shall be allowed
26 credit for any former service in the same department reentered
27 if he, within one year from said June three, one thousand nine
28 hundred fifty-five, repaid all sums withdrawn or refunded to
29 him with interest at the rate of six percent per annum, but for
30 such member who receives such refund prior to the first day
31 of January, one thousand nine hundred eighty, interest may
32 not be charged for more than three years. Any probationary
33 member of a paid police or fire department who is not given an

34 absolute appointment at the end of his probationary period
35 shall, upon request, be refunded all pension and relief fund
36 deductions made from his salary or compensation, but without
37 interest. Any member contribution made in fiscal years be-
38 ginning on the first day of July, one thousand nine hundred
39 eighty-one and thereafter by any member of such fund, which
40 is in excess of percentage required in section nineteen of this
41 article of such members salary or compensation as defined in
42 section sixteen of this article shall be refunded with eight per-
43 cent interest to such member upon completion of the calcu-
44 lation of his retirement benefit.

§8-22-20. Minimum standards for actuarial soundness.

1 The board of trustees for each pension and relief fund shall
2 have regularly scheduled actuarial valuation reports prepared
3 by a qualified actuary. All of the following standards must
4 be met:

5 (a) An actuarial valuation report shall be prepared at least
6 once every three years commencing with the later of (1) the
7 first day of July, one thousand nine hundred eighty-three, or
8 (2) three years following the most recently prepared actuarial
9 valuation report: *Provided*, That this most recently prepared
10 actuarial valuation report meets all of the standards of this
11 section.

12 (b) The actuarial valuation report shall consist of, but is
13 not limited to, the following disclosures: (1) the financial ob-
14 jective of the fund and how the objective is to be attained, (2)
15 the progress being made toward realization of the financial
16 objective, (3) recent changes in the nature of the fund, benefits
17 provided, or actuarial assumptions or methods, (4) the fre-
18 quency of actuarial valuation reports and the date of the most
19 recent actuarial valuation report, (5) the method used to value
20 fund assets, (6) the extent to which the qualified actuary relies
21 on the data provided and whether the data was certified by the
22 fund's auditor or examined by the qualified actuary for reas-
23 onableness, (7) a description and explanation of the actuarial
24 assumptions and methods, and (8) any other information the
25 qualified actuary feels is necessary or would be useful in fully
26 and fairly disclosing the actuarial condition of the fund.

27 (c) After the thirtieth day of June, one thousand nine hun-
28 dred eighty-three and thereafter, the financial objective of each
29 municipality shall not be less than to contribute to the fund
30 annually an amount which, together with the contributions from
31 the members and the allocable portion of the state premium
32 tax fund for municipal pension and relief funds established
33 under section fourteen-d, article three, chapter thirty-three of
34 this code and other income sources as authorized by law, will
35 be sufficient to meet the normal cost of the fund and amortize
36 any actuarial deficiency over a period not more than forty
37 years: *Provided*, That for those funds in existence on the first
38 day of June, one thousand nine hundred eighty-one, its ac-
39 tuarial deficiency, if any, shall not be amortized over a period
40 longer than that which remains under its current schedule. For
41 purposes of determining this minimum financial objective, (1)
42 the value of the fund's assets shall be determined on the basis
43 of any reasonable actuarial method of valuation which takes
44 into account fair market value, and (2) all costs, deficiencies,
45 rate of interest, and other factors under the fund shall be de-
46 termined on the basis of actuarial assumptions and methods
47 which, in aggregate, are reasonable (taking into account the
48 experience of the fund and reasonable expectations) and which,
49 in combination, offer the qualified actuary's best estimate of
50 anticipated experience under the fund. If as a result of this
51 legislation a municipality's financial commitment to the fund
52 is materially increased, the municipality may elect to phase in
53 this increase over the five fiscal years commencing the first
54 day of June, one thousand nine hundred eighty-three.

55 (d) For purposes of this section the term "qualified actuary"
56 means only an actuary who is a member of the society of ac-
57 tuaries or the American academy of actuaries. The qualified
58 actuary shall be designated a fiduciary and shall discharge his
59 duties with respect to a fund solely in the interest of the
60 members and member's beneficiaries of that fund. In order for
61 the standards of this section to be met, the qualified actuary
62 shall certify that the actuarial valuation report is complete
63 and accurate and that in his opinion the technique and assump-
64 tions used are reasonable and meet the requirements of this
65 section of this article.

66 (e) The cost of the preparation of the actuarial valuation
67 report shall be paid by the fund.

§8-22-21. Duties and bond of custodian of funds.

1 The treasurer of the municipality shall be the custodian of
2 all of the assets of the policemen's pension and relief fund
3 and firemen's pension and relief fund, and shall deposit and
4 pay out the moneys thereof upon, and in accordance with, any
5 proper order of the board of trustees. Such treasurer shall be
6 liable upon his official bond as treasurer for the faithful per-
7 formance of his duties in respect to such fund or funds, and the
8 official bond of the treasurer covering such fund or funds shall
9 be executed with a good and financially responsible surety
10 company authorized to do business in this state, as surety for
11 such fund or funds. The treasurer of the municipality shall as
12 a fund fiduciary, discharge his duties with respect to such pen-
13 sion and relief fund solely in the interest of the members and
14 members' beneficiaries for the exclusive purpose of providing
15 benefits to such members and their beneficiaries and defray-
16 ing reasonable expenses of administering the fund. Such fund
17 or funds shall be trust funds and shall not be used for any
18 other purpose than provided herein. Such treasurer shall keep
19 in convenient form such data as may be necessary for an
20 actuarial valuation report of such fund and for checking the
21 actuarial experience of such fund.

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

1 The board of trustees may invest a portion or all of the
2 fund assets in the consolidated fund or the consolidated pen-
3 sion fund. The board of trustees shall invest any moneys re-
4 ceived by it and not invested in the consolidated fund or the
5 consolidated pension fund in the following classes of securities
6 and accounts and not otherwise, which securities and accounts
7 mature on such dates as will make available such amount of
8 cash as is required:

9 (a) Obligations of the United States or any agency thereof,
10 which are guaranteed by the United States or for which the
11 full faith and credit of the United States is pledged for the
12 payment of principal and interest, or any obligation of an

13 agency of the United States designated in section nine, article
14 six, chapter twelve of this code.

15 (b) Certificates of deposit secured by (1) obligations as
16 listed in subdivision (a) of this section, (2) general obligation
17 or revenue bonds of the state of West Virginia, (3) general
18 obligation bonds of any other state, (4) general obligation bonds
19 of any county in this state or of any county board of education
20 in this state, or (5) general obligation bonds of any municipi-
21 pality in this state.

22 (c) Interest bearing savings accounts or certificates of de-
23 posit in banking institutions, the accounts of which are in-
24 sured by the federal deposit insurance corporation, or interest
25 bearing savings accounts in federal savings and loan asso-
26 ciations, the accounts of which are insured by the federal sav-
27 ings and loan insurance corporation, or interest bearing sav-
28 ings accounts in building and loan associations, the accounts
29 of which are insured by the federal savings and loan insurance
30 corporation: *Provided*, That an investment in any such savings
31 account in excess of the amount thereof which would be in-
32 sured by the federal deposit insurance corporation or the feder-
33 al savings and loan insurance corporation, as the case may be,
34 shall not be made unless such banking institution, federal
35 savings and loan association or building and loan association
36 provides adequate bond or other adequate security for the
37 amount of the proposed municipal investment in excess of
38 such insurance coverage, the adequacy of any such bond or
39 other security to be determined by the treasurer of such muni-
40 cipality.

41 (d) Any security that is secured by a first lien deed of
42 trust or mortgage on real property situate within this state:
43 *Provided*, That the value of the securing of first lien deed of
44 trust or mortgage shall be at least twice the amount loaned
45 thereon, based on a sound appraisal by a competent appraiser
46 and duly certified by him or federally insured: *Provided, how-*
47 *ever*, That the interest for such loan of money at a rate ex-
48 pressed in terms of dollars upon one hundred dollars for a
49 year, shall be not less than the monthly index of long-term
50 government bonds yields for the second preceding calendar

51 month plus an additional one percent a year rounded off to
52 the nearest quarter of one percent a year.

53 Any investment made under this article shall be made with
54 the exercise of that degree of judgment and care, under cir-
55 cumstances then prevailing, which men of experience, pru-
56 dence, discretion and intelligence exercise in the management
57 of their own affairs, not for speculation but for investment,
58 considering the probable safety of their capital as well as the
59 probable income to be derived.

**§8-22-23a. Eligibility for total and temporary disability pensions
and total and permanent disability pensions.**

1 (a) All members applying for total and temporary or
2 total and permanent disability benefits after the thirtieth
3 day of June, one thousand nine hundred eighty-one, shall be
4 examined by at least two physicians under the direction of
5 the staff at Marshall University, West Virginia University,
6 Morgantown or West Virginia University, Charleston: *Pro-*
7 *vided*, That if such member's medical condition cannot be
8 agreed upon by two such physicians, a third physician shall
9 examine such member. Such medical examination shall include
10 the review of such member's medical history. The expense of
11 the member's transportation to such medical examination and
12 the expense of the medical examination shall be paid by the
13 board of trustees, such medical expense shall not exceed the
14 reasonable and customary charges for such services.

15 (b) Effective for members becoming eligible for total and
16 temporary disability benefits after the thirtieth day of June,
17 one thousand nine hundred eighty-one, initially or previously
18 under this subsection allowance for initial or additional total
19 and temporary disability payments, the amount thereof to be
20 determined as specified in section twenty-four of this article,
21 shall be paid to such member during such disability for a
22 period not exceeding twenty-six weeks if after a medical
23 examination in accordance with subsection (a) of this section
24 of this article, two examining physicians report in writing to
25 the board of trustees that (1) such member has become so
26 totally, physically or mentally disabled, from any reason, as to
27 render such member totally, physically or mentally, incapa-

28 cited for employment as a police officer or firefighter and
29 (2) it has not been determined if such disability is permanent
30 or it has been determined that such disability may be alleviat-
31 ed or eliminated if such member follows a reasonable medical
32 treatment plan or reasonable medical advice: *Provided*, That
33 in any event a member is not eligible for total and temporary
34 disability payments following the fourth consecutive twenty-
35 six week period of total and temporary disability unless such
36 subsequent disability results from a cause unrelated to the
37 cause of the four previous periods of total and temporary dis-
38 ability. During such two-year period of such total and tem-
39 porary disability, such department is required to restore such
40 member to his former position in such department at any time
41 he is determined to no longer be disabled: *Provided*, That the
42 department may refill, on a temporary basis, the position va-
43 cated by such member after the first twenty-six weeks of his
44 temporary disability.

45 (c) Effective for members becoming eligible for total and
46 permanent disability benefits initially under this subsection or
47 becoming eligible for total and temporary disability benefits
48 under subsection (b) of this section after the thirtieth day of
49 June, one thousand nine hundred eighty-one, allowance for
50 total and permanent disability payments, the amount thereof to
51 be determined as specified in section twenty-four of this
52 article, shall be paid to such member after a medical examina-
53 tion in accordance with subsection (a) of this section, two
54 examining physicians report in writing to the board of trustees
55 that such member has become so totally, physically or ment-
56 ally, and permanently disabled, as a proximate result of ser-
57 vice rendered in the performance of his duties in such depart-
58 ment, as to render such member totally, physically or ment-
59 ally, and permanently incapacitated for employment as a
60 police officer or firefighter or, if such member has been a
61 member of either of such departments for a period of not less
62 than five consecutive years preceding such disability, such
63 member has become so totally, physically or mentally, and
64 permanently disabled, from any reason other than service ren-
65 dered in the performance of his duties in such department, as to
66 render such member totally, physically or mentally, and per-

67 manently incapacitated for employment as a police officer or
68 firefighter. The phrase "totally, physically or mentally, and
69 permanently disabled" shall not be construed to include a
70 medical condition which may be corrected if such member
71 follows a reasonable medical treatment plan or reasonable
72 medical advice.

73 (d) Effective for members becoming eligible for total and
74 temporary disability benefits after the thirtieth day of June,
75 one thousand nine hundred eighty-one under the provisions of
76 subsection (b) of this section, any payments for total and tem-
77 porary disability for a period during such disability for not
78 exceeding twenty-six weeks shall cease at the end of such
79 twenty-six week period under the following conditions:

80 (1) Such member fails to be examined as provided in sub-
81 section (a) of this section or (2) such member is examined or
82 reexamined as provided in subsection (a) and two examining
83 physicians report to the board of trustees that such member's
84 medical condition does not meet the requirements of sub-
85 section (b) or (c) of this section. Effective for members be-
86 coming eligible for total and temporary disability benefits after
87 the thirtieth day of June, one thousand nine hundred eighty-one
88 under subsection (b) of this section, subsequent to such mem-
89 ber's receipt of total and temporary disability payments for a
90 period of two years, such payments shall cease at the end of
91 such two-year period under the following conditions: (1) Such
92 member fails to be examined as provided in subsection (a) of
93 this section of this article or (2) such member is examined or
94 reexamined as provided in subsection (a) and two examining
95 physicians report to the board of trustees that such member's
96 medical condition does not meet the requirements of sub-
97 section (c) of this section.

**§8-22-24. Total and permanent disability pensions and total tempo-
rary disability pensions.**

1 (a) The monthly sum to be paid to each member eligible
2 for disability, prior to the first day of July, one thousand
3 nine hundred eighty-one, under the provisions of section
4 twenty-four of this article or, after the thirtieth day of
5 June, one thousand nine hundred eighty-one, under the pro-

6 visions of section twenty-three-a of this article, shall be equal
7 to sixty percent of the monthly salary or compensation being
8 received by such member, at the time he is so disabled, or
9 the sum of two hundred dollars per month, whichever shall
10 be greater: *Provided*, That the limitation provided in sub-
11 section (b) of the section is not exceeded.

12 (b) Effective for any member who becomes eligible for
13 disability benefits on or after the first day of July, one
14 thousand nine hundred eighty-one under the provisions of
15 section twenty-three-a of this article, as a proximate result
16 of service rendered in the performance of his duties within
17 such departments, his monthly disability payment as pro-
18 vided in subsection (a) of this section shall not, when aggre-
19 gated with the monthly amount of state workmen's com-
20 pensation, result in such disabled member receiving a total
21 monthly income from such sources in excess of one hundred
22 percent of the basic compensation which is paid to members
23 holding the same position which such member held within
24 such department at the time of his disability. Lump sum
25 payments of state workmen's compensation benefits shall
26 not be considered for purposes of this subsection unless such
27 lump sum payments represented commuted values of monthly
28 state workmen's compensation benefits.

§8-22-25. Retirement pensions.

1 (a) Any member of a paid police or fire department who
2 is entitled to a retirement pension hereunder, and who has
3 been in the honorable service of such department for twenty
4 years, may, upon written application to the board of trustees,
5 be retired from all service in such department without medical
6 examination or disability; and on such retirement the board
7 of trustees shall authorize the payment of annual retirement
8 pension benefits commencing upon his retirement or upon his
9 attaining the age of fifty years, whichever is later, payable
10 in twelve monthly installments for each year of the remainder
11 of his life, in an amount equal to sixty percent of such mem-
12 ber's average annual salary or compensation received during
13 the three twelve-consecutive-month periods, not necessarily
14 consecutive, each of such three periods beginning with the
15 same calendar month of different years and all such three

16 periods falling within the member's final five years of em-
17 ployment with such department, in which such member
18 received his highest salary or compensation while a member
19 of the department, or an amount of two hundred dollars per
20 month, whichever shall be greater.

21 (b) Any member of any such department who is entitled to
22 a retirement pension under the provisions of subsection (a)
23 of this section and who has been in the honorable service of
24 such department for more than twenty years at the time of
25 his retirement, as herein provided, shall, in addition to the
26 sixty percent authorized in said subsection (a), receive one
27 additional percent, to be added to the sixty percent, per each
28 year served in excess of said twenty years, up to a maximum
29 of ten additional percent.

30 (c) Any member of any such department whose service has
31 been interrupted by duty with the armed forces of the United
32 States as provided in section twenty-seven of this article
33 and who retires prior to the first day of July, one thousand
34 nine hundred eighty-one, shall be eligible for retirement
35 pension benefits immediately upon retirement, regardless of
36 his age, if he shall otherwise be eligible for such retirement
37 pension benefits.

38 (d) Any member of a paid police or fire department shall
39 be retired at the age of sixty-five years in the manner pro-
40 vided in this subsection. When a member of the paid police
41 or fire department shall have reached the age of sixty-five
42 years, the said board of trustees shall notify the mayor of
43 this fact, within thirty days of such member's sixty-fifth
44 birthday; and the mayor shall cause such sixty-five-year-old
45 member of the paid police or fire department to be retired
46 within a period of not more than thirty additional days.
47 Upon retirement under the provisions of this subsection (d),
48 such member shall receive retirement pension benefits pay-
49 able in twelve monthly installments for each year of the
50 remainder of his life, in an amount equal to sixty percent of
51 such member's average annual salary or compensation received
52 during the three twelve-consecutive-month periods, not neces-
53 sarily consecutive, each of such three periods beginning with
54 the same calendar month of different years and all such

55 three periods falling within the member's final five years
 56 of employment with such department, in which such member
 57 received his highest salary or compensation while a member
 58 of the department, or an amount of two hundred dollars per
 59 month, whichever shall be greater, and if such member has
 60 been employed in said department for more than twenty
 61 years, the provisions of subsection (b) of this section shall
 62 apply.

63 (e) It shall be the duty of each member of a paid police
 64 or fire department at the time a fund is hereafter established
 65 to furnish the necessary proof of his date of birth to the said
 66 board of trustees, as specified in section twenty-three of this
 67 article, within a reasonable length of time, said length of
 68 time to be determined by the said board of trustees; and
 69 then the board of trustees and the mayor shall proceed to
 70 act in the manner provided in subsection (d) of this section
 71 and shall cause all members of the paid police or fire de-
 72 partment who are over the age of sixty-five years to be
 73 retired in not less than sixty days from the date the fund is
 74 established. Upon retirement under the provisions of this
 75 subsection (e), such member, whether he has been employed
 76 in said department for twenty years or not, shall receive
 77 retirement pension benefits payable in twelve monthly in-
 78 stallments for each year of the remainder of his life, in an
 79 amount equal to sixty percent of such member's average
 80 annual salary or compensation received during the three
 81 twelve-consecutive-month periods, not necessarily consecu-
 82 tive, each of such three periods beginning with the same
 83 calendar month of different years and all such three periods
 84 falling within the member's final five years of employment
 85 with such department, in which such member received his
 86 highest salary or compensation while a member of the de-
 87 partment, or an amount of two hundred dollars per month,
 88 whichever shall be greater, and if such member has been
 89 employed in said department for more than twenty years, the
 90 provisions of subsection (b) of this section shall apply.

§8-22-26. Death benefits.

1 (a) In case:

2 (1) Any member of a paid police or fire department who

3 has been in continuous service for more than five years dies
4 from any cause other than as specified in subsection (b) of this
5 section before retirement on a disability pension under the
6 provisions of, prior to the first day of July, one thousand nine
7 hundred eighty-one, section twenty-four of this article or, after
8 the thirtieth day of June, one thousand nine hundred eighty-
9 one, section twenty-three-a and twenty-four of this article or a
10 retirement pension under the provisions of subsection (a) or
11 both subsections (a) and (b) of section twenty-eight of this
12 article, leaving in either case surviving a dependent spouse, or
13 any dependent child or children under the age of eighteen years,
14 or dependent father or mother or both, or any dependent
15 brothers or sisters or both under the age of eighteen years; or

16 (2) Any former member of any such department who is on
17 a disability pension prior to the first day of July, one thousand
18 nine hundred eighty-one, under section twenty-four of this
19 article, or after the thirtieth day of June, one thousand nine
20 hundred eighty-one, under sections twenty-three-a and twenty-
21 four of this article, or is receiving or is entitled to receive re-
22 tirement pension benefits under the provisions of subsection
23 (a) or both subsections (a) and (b) of section twenty-five of this
24 article, shall die from any cause other than as specified in
25 subsection (b) of this section leaving in either case surviving a
26 dependent spouse to whom the marriage took place prior to the
27 date of such member's retirement on a disability pension or a
28 retirement pension, or any dependent child or children under
29 the age of eighteen years who were born prior to or within ten
30 months after the date of such member's retirement on a dis-
31 ability pension or a retirement pension, or dependent father or
32 mother or both, or any dependent brothers or sisters or both
33 under the age of eighteen years; then in any of the cases set
34 forth above in (1) and (2) the board of trustees of such pen-
35 sion and relief fund shall, immediately following the death of
36 such member, pay to or for each of such entitled surviving de-
37 pendents the following pension benefits viz.: To such depen-
38 dent spouse, until death or remarriage, a sum per month equal
39 to thirty percent of such member's average monthly salary or
40 compensation received during the three twelve-consecutive-
41 month periods, not necessarily consecutive, each of such three

42 periods beginning with the same calendar month of different
43 years and all such three periods falling within the member's
44 final five years of employment with such department, in which
45 such member received his highest salary or compensation while
46 a member of the department, hereinafter for convenience re-
47 ferred to in this section as "monthly average," or an amount of
48 one hundred dollars per month, whichever shall be greater; to
49 each such dependent child a sum per month equal to ten per-
50 cent of such monthly average, or the sum of thirty dollars per
51 month for each such child, whichever shall be greater, until
52 such child shall attain the age of eighteen years or marry,
53 whichever first occurs; to each such dependent orphaned child
54 a sum per month equal to fifteen percent of such monthly
55 average, or the sum of forty-five dollars per month for each
56 such child, whichever shall be greater, until such child shall
57 attain the age of eighteen years or marry, whichever first oc-
58 curs; to each such dependent father or mother a sum per
59 month for each equal to ten percent of such monthly average,
60 or the sum of thirty dollars per month for each such father
61 and mother, whichever shall be greater; to each such depen-
62 dent brother or sister the sum of five dollars per month until
63 such individual shall attain the age of eighteen years or marry,
64 whichever first occurs but in no event shall the aggregate
65 amount paid to such brothers and sisters exceed thirty dollars
66 per month; but if at any time, because of the number of de-
67 pendents, all such dependents cannot be paid in full as herein
68 provided, then each dependent shall receive his pro rata share
69 of such payments: *Provided*, That in no case shall the payments
70 to the surviving spouse and children be cut below sixty-five
71 percent of the total amount to be paid to all dependents.

72 (b) The dependent spouse, child or children, or dependent
73 father or mother, or dependent brothers or sisters, of any such
74 member who shall die by reason of service rendered in the
75 performance of such member's duties shall, regardless of the
76 length of such member's service and irrespective of whether
77 such member was or was not entitled to receive or was or
78 was not receiving disability pension or temporary disability
79 payments at the time of his death, receive the death benefits
80 provided for in subsection (a) of this section, and if such mem-

81 ber had less than three years' service at the time of his death,
82 the monthly average shall be computed on the basis of the
83 actual number of years of service.

84 (c) If a member dies without leaving a dependent spouse,
85 child or children, or dependent father or mother, or dependent
86 brothers or sisters, his contributions to the fund plus interest
87 shall be refunded to his named beneficiary or, if no beneficiary
88 has been named, to his estate to the extent that such contri-
89 butions plus interest exceed any disability or retirement benefits
90 that he may have received before his death.

91 (d) The provisions of this section shall not be construed as
92 creating or establishing any contractual or vested rights in favor
93 of any individual who may be or become qualified as a bene-
94 ficiary of the death benefits herein authorized to be made all
95 the provisions hereof and benefits provided for hereunder be-
96 ing expressly subject to such subsequent legislative enactments
97 as may provide for any change, modification or elimination of
98 the beneficiaries or benefits specified herein.

**§8-22-27. General provisions concerning disability pensions, re-
tirement pensions and death benefits.**

1 (a) In determining the years of service of a member in a
2 paid police or fire department for the purpose of ascertain-
3 ing certain disability pension benefits, all retirement pension
4 benefits and certain death benefits, the following provisions
5 shall be applicable:

6 (1) Absence from the service because of sickness or
7 injury for a period of two years or less shall not be construed
8 as time out of service; and

9 (2) Any member of any paid police or fire department
10 covered by the provisions of sections sixteen through twenty-
11 eight of this article who has been required to or shall at any
12 future time be required to enter the armed forces of the
13 United States by conscription, by reason of being a member
14 of some reserve unit of the armed forces which unit is called
15 into active duty for one year or more or a member of the
16 West Virginia national guard or air national guard, or who
17 enlists in one of the armed forces of the United States during

18 hostilities, and who upon receipt of an honorable discharge
19 from such armed forces presents himself for resumption of
20 duty to his appointed municipal official within six months
21 from his date of discharge, and is accepted by the pension
22 board's board of medical examiners as being mentally and
23 physically capable of performing his required duties as a
24 member of such paid police or fire department, shall be given
25 credit for continuous service in said paid police or fire
26 department, and his rights shall be governed as herein pro-
27 vided. No member of a paid police or fire department shall
28 be required to pay the monthly assessment as now required
29 by law, during his period of service in the armed forces of the
30 United States.

31 (b) As to any former member of a paid police or fire
32 department receiving disability pension benefits or retire-
33 ment pension benefits from a policemen's or firemen's pension
34 and relief fund, on the effective date of this article, the follow-
35 ing provisions shall govern and control the amount of such
36 pension benefits:

37 (1) A former member who on June thirtieth, one thousand
38 nine hundred sixty-two, was receiving disability pension bene-
39 fits or retirement pension benefits from a policemen's or
40 firemen's pension and relief fund, shall continue to receive
41 pension benefits but on and after July one, one thousand
42 nine hundred seventy-one, such pension benefits shall be in the
43 amount of two hundred dollars per month; and

44 (2) A former member who became entitled to disability
45 pension benefits or retirement pension benefits on or after
46 July one, one thousand nine hundred sixty-two, shall con-
47 tinue to receive pension benefits but on and after July one,
48 one thousand nine hundred seventy-one, shall receive the
49 disability pension benefits or retirement pension benefits
50 provided for in section twenty-four or section twenty-five
51 of this article, as the case may be.

52 (c) As to any dependent spouse, child or children, or de-
53 pendent father or mother, or dependent brothers or sisters,
54 of any former member of a paid police or fire department,
55 receiving any death benefits from a policemen's pension and

56 relief fund or firemen's pension and relief fund, on the
57 effective date of this article, the following provisions shall
58 govern and control the amount of such death benefits:

59 (1) A dependent spouse, child or children, or dependent
60 father or mother, or dependent brothers or sisters, of any
61 former member, who on June thirty, one thousand nine
62 hundred sixty-two, was receiving any death benefits from a
63 policemen's pension and relief fund or firemen's pension and
64 relief fund, shall continue to receive death benefits but on
65 and after July one, one thousand nine hundred seventy-one,
66 such death benefits shall be in the following amounts: To a
67 dependent spouse, until death or remarriage, the sum of one
68 hundred dollars per month; to each dependent child the sum
69 of thirty dollars per month, until such child shall attain
70 the age of eighteen years or marry, whichever first occurs;
71 to each dependent orphaned child the sum of forty-five
72 dollars per month, until such child shall attain the age of
73 eighteen years or marry, whichever first occurs; to each
74 dependent father and mother the sum of thirty dollars per
75 month for each; to each dependent brother or sister the sum
76 of five dollars per month, until such individual shall attain
77 the age of eighteen years or marry, whichever first occurs,
78 but in no event shall the aggregate amount paid to such
79 brothers and sisters exceed thirty dollars per month; but
80 if at any time, because of the number of dependents, all
81 such dependents cannot be paid in full as herein provided,
82 then each dependent shall receive his pro rata share of such
83 payments: *Provided*, That in no case shall the payments to
84 the surviving spouse and children be cut below sixty-five
85 percent of the total amount to be paid to all dependents;

86 (2) A dependent spouse, child or children, or dependent
87 father or mother, or dependent brothers or sisters, of any
88 former member, who became eligible for death benefits on
89 or after July one, one thousand nine hundred sixty-two, shall
90 continue to receive death benefits but on and after July
91 one, one thousand nine hundred seventy-one, shall receive
92 the death benefits provided for in section twenty-six of this
93 article.

94 (d) A former member who is receiving disability pension

95 benefits on the thirtieth day of June, one thousand nine
96 hundred eighty-one, shall continue to receive disability pension
97 benefits provided for in section twenty-four of this article.

**§8-22-28. Period in which payments limited to income from fund;
reduced payments where fund insufficient.**

1 Until the expiration of three years from the time of the
2 creation of any such fund, unless otherwise authorized by
3 ordinance of the municipality, no payment shall be made to
4 any member or beneficiary except from the income arising
5 from said fund; and if at any time prior to the first day of
6 July, one thousand nine hundred eighty-one, there shall not
7 be sufficient money to the credit of said pension and relief
8 fund to pay each member and beneficiary entitled to the
9 benefits thereof the full amount per month, as herein pro-
10 vided, then an equal percentage of such monthly payments
11 shall be made to each member and beneficiary thereof, until
12 the earlier of (a) the first day of July, one thousand nine
13 hundred eighty-three, and (b) such time when said fund is
14 so replenished as to warrant payment in full to each of such
15 members and beneficiaries.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6. WEST VIRGINIA STATE BOARD OF INVESTMENTS.

§12-6-2. Definitions.

1 As used in this article, unless a different meaning clearly ap-
2 pears from the context:

3 (1) "Board" means the West Virginia state board of in-
4 vestments;

5 (2) "Consolidated fund" means the investment fund
6 managed by the board and established pursuant to subsection
7 (b), section eight of this article;

8 (3) "Consolidated pension fund" means the investment
9 fund managed by the board and established pursuant to
10 subsection (a), section eight of this article;

11 (4) "Local government account" means the account within
12 the consolidated fund established pursuant to subsection (b),
13 section eight of this article;

14 (5) "Local government funds" means the moneys of a
15 political subdivision, including policemen's pension and re-
16 lief funds and firemen's pension and relief funds, transferred to
17 the board for deposit in the local government account;

18 (6) "Pension funds" means and includes the workmen's
19 compensation fund; the state teachers retirement system
20 funds; the death, disability and retirement fund for members
21 of the department of public safety; the public employees re-
22 tirement system funds; the judges retirement fund; policemen's
23 pension and relief funds; firemen's pension and relief fund; and
24 such other retirement or pension funds and systems as may
25 be hereafter established on behalf of public employees of the
26 state or of its political subdivisions and administered by the
27 state;

28 (7) "Securities" means all bonds, notes, debentures or
29 other evidences of indebtedness, and shall not mean corporate
30 stock;

31 (8) "State account" means the account within the con-
32 solidated fund established pursuant to subsection (b), section
33 eight of this article; and

34 (9) "State funds" means all moneys of the state which
35 may be lawfully invested except (a) the pension funds (as de-
36 fined in subdivision (6) of this section) and (b) the "school
37 fund" established by section four, article XII of the state con-
38 stitution.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.

1 (a) For the purpose of providing additional revenue for
2 municipal policemen's and firemen's pension and relief funds
3 and additional revenue for volunteer and part volunteer fire
4 companies and departments, there is hereby levied and im-
5 posed, on and after the first day of January, one thousand nine
6 hundred eighty-two, an additional premium tax equal to one
7 percent of gross direct premiums collected, less premiums re-

8 turned to policyholders because of cancellation of policies, for
9 fire insurance and casualty insurance policies. Except as other-
10 wise provided in this section, all provisions of this article
11 relating to the levy, imposition and collection of the regular
12 premium tax are applicable to the levy, imposition and collec-
13 tion of the additional tax.

14 All moneys collected from this additional tax shall be re-
15 ceived by the commissioner and paid by him into a special
16 account in the state treasury, designated the municipal pen-
17 sions and protection fund. The net proceeds of this tax after
18 appropriation thereof by the Legislature, shall be distributed
19 in accordance with the provisions of subsection (c) of this
20 section.

21 (b) Before the first day of August, one thousand nine hun-
22 dred eighty-three, and before the first day of August of each
23 calendar year thereafter, the treasurer of each municipality
24 in which a municipal policemen's or firemen's pension and
25 relief fund has been established shall report to the state audi-
26 tor the average monthly number of members who worked at
27 least one hundred hours per month of municipal policemen's
28 or firemen's pension systems during the preceding fiscal year.
29 Before the first day of August, one thousand nine hundred
30 eighty-three, and before the first day of August of each calen-
31 dar year thereafter, the state fire marshal shall report to the
32 state auditor the names and addresses of all volunteer and part
33 volunteer fire companies and departments within the state
34 which meet the eligibility requirements established in section
35 eight-a, article fifteen, chapter eight of this code.

36 Before the first day of September, one thousand nine hun-
37 dred eighty-three, and before the first day of September of each
38 calendar year thereafter, the state auditor shall allocate and
39 distribute the revenues in the municipal pensions and protection
40 fund which were collected during the preceding calendar year
41 to municipal policemen's and firemen's pension and relief
42 funds and to volunteer and part volunteer fire companies and
43 departments. Seventy-five percent of the aforementioned reve-
44 nues allocated shall be allocated to municipal policemen's and
45 firemen's pension and relief funds and twenty-five percent of

46 such allocated revenues shall be allocated to volunteer and
47 part volunteer fire companies and departments.

48 (c) (1) Each municipal pension and relief fund shall receive
49 a pro rata share of the revenues allocated to municipal police-
50 men's and firemen's pension and relief funds based upon the
51 corresponding municipality's average monthly number of mem-
52 bers who worked at least one hundred hours per month during
53 the preceding fiscal year. All moneys received by municipal
54 pension and relief funds under this section may be expended
55 only for the purposes described in sections sixteen through
56 twenty-eight, article twenty-two, chapter eight of this code.

57 (2) Each volunteer fire company or department shall re-
58 ceive an equal share of the revenues allocated for volunteer
59 and part volunteer fire companies and departments.

60 (3) In addition to the share allocated and distributed in ac-
61 cordance with subdivision (1) of this subsection, each muni-
62 cipal fire department composed of full-time paid members
63 and volunteers and part volunteer fire companies and depart-
64 ments equal to the share distributed to volunteer fire compan-
65 ies under subdivision (2) of this subsection reduced by an
66 amount equal to such share multiplied by the ratio of the
67 number of full-time paid fire department members who are
68 also members of a municipal firemen's pension system to the
69 total number of members of such fire department.

70 (d) The allocation and distribution of revenues provided for
71 in this section are subject to the provisions of section twenty,
72 article twenty-two, and sections eight-a and eight-b, article
73 fifteen, chapter eight of this code.

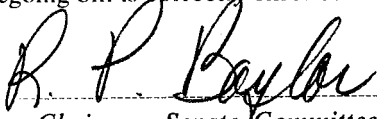
**§33-12-16a. Additional premium tax on excess line brokers; allo-
cation of proceeds; effective date.**

1 For the purpose of providing additional revenue for muni-
2 cipal policemen's and firemen's pension and relief funds and
3 additional revenue for volunteer and part volunteer fire com-
4 panies and departments, an additional annual premium tax
5 is hereby imposed and required to be paid, on and after the first
6 day of January, one thousand nine hundred eighty-two, in addi-
7 tion to the annual premium tax imposed by section sixteen of

8 this article, which additional tax shall be a sum equal to four
9 percent of the gross premiums received on the gross business
10 procured by such licensee on subjects of insurance, resident,
11 located or to be performed in this state and obtained pursuant
12 to the provisions of this article, including any so-called
13 dividends on participating insurance policies applied in reduc-
14 tion of premiums, less premiums returnable for cancellation.
15 All provisions of this article relating to the levy, imposition
16 and collection of the regular premium tax are applicable to the
17 levy, imposition and collection of this additional tax.

18 All such taxes paid to the commissioner pursuant to this
19 section shall be paid by him into a special account in the
20 state treasury, designated the municipal pensions and protection
21 fund, and after appropriation by the Legislature, shall be dis-
22 tributed in accordance with the provisions of subsection (c),
23 section fourteen-d, article three of this chapter.

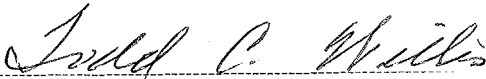
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

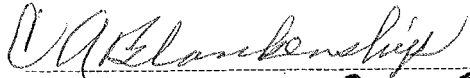

Chairman Senate Committee

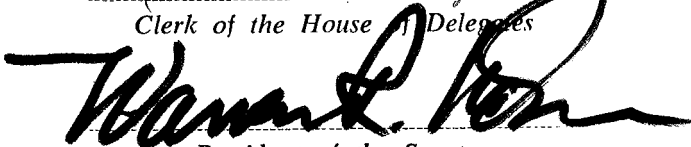

Chairman House Committee

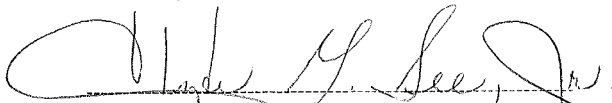
Originated in the House.

Takes effect ninety days from passage.



Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within is approved this the 29
day of April, 1981.


Governor

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