

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-29-82

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1159

(By Mr. Farley)

— ● —

Passed March 12, 1982

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1159

(By MR. FARLEY)

[Passed March 12, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact sections twenty, twenty-three-a, twenty-four, twenty-five, twenty-six and twenty-seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section fourteen-d, article three, chapter thirty-three of said code, all relating to correcting grammatical and technical errors; eliminating obsolete code provisions concerning sums paid to members of municipal policemen's and firemen's pension and relief fund eligible for disability pension benefits prior to the first day of July, one thousand nine hundred eighty-one; providing for eligibility for retirement pension benefits for members of municipal policemen's and firemen's pension and relief funds whose service was interrupted, prior to the first day of July, one thousand nine hundred eighty-one, by duty with the United States armed forces; specifying six percent interest as interest to be paid whenever return of contributions occurs and is to be made to a nondependent beneficiary or the estate; allowing service credit for members of armed reserve units, national guard units and air national guard units when their units are called into active duty for one year or more; and requiring the state auditor to authorize the distribution of revenues from the municipal pensions and protection fund.

Be it enacted by the Legislature of West Virginia:

That sections twenty, twenty-three-a, twenty-four, twenty-five, twenty-six and twenty-seven, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section fourteen-d, article three, chapter thirty-three of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

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

§8-22-20. 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 be
4 met:

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

12 (b) The actuarial valuation report shall consist of, but
13 is not limited to, the following disclosures: (1) the financial
14 objective of the fund and how the objective is to be at-
15 tained, (2) the progress being made toward realization of
16 the financial objective, (3) recent changes in the nature of
17 the fund, benefits provided, or actuarial assumptions or
18 methods, (4) the frequency of actuarial valuation reports
19 and the date of the most recent actuarial valuation report,
20 (5) the method used to value fund assets, (6) the extent to
21 which the qualified actuary relies on the data provided and
22 whether the data was certified by the fund's auditor or
23 examined by the qualified actuary for reasonableness, (7) a

24 description and explanation of the actuarial assumptions and
25 methods, and (8) any other information the qualified actuary
26 feels is necessary or would be useful in fully and fairly
27 disclosing the actuarial condition of the fund.

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

58 (d) For purposes of this section the term "qualified
59 actuary" means only an actuary who is a member of the
60 Society of Actuaries or the American Academy of Actuaries.
61 The qualified actuary shall be designated a fiduciary and
62 shall discharge his duties with respect to a fund solely in

63 the interest of the members and member's beneficiaries of
64 that fund. In order for the standards of this section to be
65 met, the qualified actuary shall certify that the actuarial
66 valuation report is complete and accurate and that in his
67 opinion the technique and assumptions used are reasonable
68 and meet the requirements of this section of this article.

69 (e) The cost of the preparation of the actuarial valua-
70 tion report shall be paid by the fund.

**§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 total
2 and permanent disability benefits after the thirtieth day of
3 June, one thousand nine hundred eighty-one, shall be examined
4 by at least two physicians under the direction of the staff at
5 Marshall University, West Virginia University, Morgantown
6 or West Virginia University, Charleston: *Provided*, That if
7 such member's medical condition cannot be agreed upon by
8 two such physicians, a third physician shall examine such
9 member. Such medical examination shall include the review of
10 such member's medical history. The expense of the member's
11 transportation to such medical examination and the expense of
12 the medical examination shall be paid by the board of trustees,
13 such medical expense shall not exceed the reasonable and
14 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 per-
22 iod not exceeding twenty-six weeks if after a medical exami-
23 nation in accordance with subsection (a) of this section of this
24 article, two examining physicians report in writing to the board
25 of trustees that (1) such member has become so totally, phy-
26 sically or mentally disabled, from any reason, as to render such
27 member totally, physically or mentally, incapacitated for em-
28 ployment as a police officer or firefighter and (2) it has not

29 been determined if such disability is permanent or it has been
30 determined that such disability may be alleviated or eliminated
31 if such member follows a reasonable medical treatment plan
32 or reasonable medical advice: *Provided*, That in any event a
33 member is not eligible for total and temporary disability pay-
34 ments following the fourth consecutive twenty-six week period
35 of total and temporary disability unless such subsequent dis-
36 ability results from a cause unrelated to the cause of the four
37 previous periods of total and temporary disability. During
38 such two-year period of such total and temporary disability,
39 such department is required to restore such member to his
40 former position in such department at any time he is deter-
41 mined to no longer be disabled: *Provided*, That the depart-
42 ment may refill, on a temporary basis, the position vacated by
43 such member after the first twenty-six weeks of his temporary
44 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
51 to be determined as specified in section twenty-four of this
52 article, shall be paid to such member after a medical exami-
53 nation 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 service
57 rendered in the performance of his duties in such department,
58 as to render such member totally, physically or mentally, and
59 permanently incapacitated for employment as a police officer
60 or firefighter or, if such member has been a member of either
61 of such departments for a period of not less than five consecu-
62 tive years preceding such disability, such member has become
63 so totally, physically or mentally, and permanently disabled,
64 from any reason other than service rendered in the perfor-
65 mance of his duties in such department, as to render such
66 member totally, physically or mentally, and permanently in-
67 capacitated for employment as a police officer or firefighter.
68 The phrase "totally, physically or mentally, and permanently

69 disabled” shall not be construed to include a medical condition
70 which may be corrected if such member follows a reasonable
71 medical treatment plan or reasonable medical advice.

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

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

91 (1) Such member fails to be examined as provided in sub-
92 section (a) of this section of this article or (2) such member is
93 examined or reexamined as provided in subsection (a) and two
94 examining physicians report to the board of trustees that such
95 member’s medical condition does not meet the requirements of
96 subsection (c) of this section.

§8-22-24. Disability pensions.

1 (a) The monthly sum to be paid to each member eligible
2 for disability under the provisions of section twenty-three-a of
3 this article, shall be equal to sixty percent of the monthly salary
4 or compensation being received by such member, at the time
5 he is so disabled, or the sum of two hundred dollars per month,
6 whichever shall be greater: *Provided*, That the limitation
7 provided in subsection (b) of this section is not exceeded.

8 (b) Effective for any member who becomes eligible for dis-
9 ability benefits on or after the first day of July, one thousand

10 nine hundred eighty-one, under the provisions of section
11 twenty-three-a of this article, as a proximate result of service
12 rendered in the performance of his duties within such depart-
13 ments, his monthly disability payment as provided in subsection
14 (a) of this section shall not, when aggregated with the monthly
15 amount of state workmen's compensation, result in such dis-
16 abled member receiving a total monthly income from such
17 sources in excess of one hundred percent of the basic com-
18 pensation which is paid to members holding the same position
19 which such member held within such department at the time
20 of his disability. Lump sum payments of state workmen's
21 compensation benefits shall not be considered for purposes
22 of this subsection unless such lump sum payments represent
23 commuted values of monthly state workmen's compensation
24 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 of
7 trustees shall authorize the payment of annual retirement pen-
8 sion benefits commencing upon his retirement or upon his at-
9 taining the age of fifty years, whichever is later, payable in
10 twelve monthly installments for each year of the remainder of
11 his life, in an amount equal to sixty percent of such member's
12 average annual salary or compensation received during the
13 three twelve-consecutive-month periods, not necessarily con-
14 secutive, each of such three periods beginning with the same
15 calendar month of different years and all such three periods
16 falling within the member's final five years of employment
17 with such department, in which such member received his
18 highest salary or compensation while a member of the de-
19 partment, or an amount of two hundred dollars per month,
20 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 prior
33 to the first day of July, one thousand nine hundred eighty-one,
34 shall be eligible for retirement pension benefits immediately
35 upon retirement, regardless of his age, if he shall otherwise be
36 eligible for such retirement pension benefits.

37 (d) Any member of a paid police or fire department shall be
38 retired at the age of sixty-five years in the manner provided
39 in this subsection. When a member of the paid police or fire
40 department shall have reached the age of sixty-five years, the
41 said board of trustees shall notify the mayor of this fact, with-
42 in thirty days of such member's sixty-fifth birthday; and the
43 mayor shall cause such sixty-five-year-old member of the paid
44 police or fire department to be retired within a period of not
45 more than thirty additional days. Upon retirement under the
46 provisions of this subsection (d), such member shall receive
47 retirement pension benefits payable in twelve monthly install-
48 ments for each year of the remainder of his life, in an amount
49 equal to sixty percent of such member's average annual salary
50 or compensation received during the three twelve-consecutive-
51 month periods, not necessarily consecutive, each of such three
52 periods beginning with the same calendar month of different
53 years and all such three periods falling within the member's
54 final five years of employment with such department, in which
55 such member received his highest salary or compensation
56 while a member of the department, or an amount of two
57 hundred dollars per month, whichever shall be greater, and if
58 such member has been employed in said department for more
59 than twenty years, the provisions of subsection (b) of this sec-
60 tion shall apply.

61 (e) It shall be the duty of each member of a paid police
62 or fire department at the time a fund is hereafter established

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

§2-22-26. 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
5 this section before retirement on a disability pension under
6 the provisions of, prior to the first day of July, one thou-
7 sand nine hundred eighty-one, section twenty-four of this
8 article or, after the thirtieth day of June, one thousand
9 nine hundred eighty-one, section twenty-three-a and twenty-
10 four of this article or a retirement pension under the pro-
11 visions of subsection (a) or both subsections (a) and (b), sec-
12 tion twenty-five of this article, leaving in either case sur-
13 viving a dependent spouse, or any dependent child or chil-

14 dren under the age of eighteen years, or dependent father
15 or mother or both, or any dependent brothers or sisters or
16 both under the age of eighteen years; or

17 (2) Any former member of any such department who is on a
18 disability pension prior to the first day of July, one thou-
19 sand nine hundred eighty-one, under section twenty-four of
20 this article, or after the thirtieth day of June, one thousand
21 nine hundred eighty-one, under sections twenty-three-a and
22 twenty-four of this article, or is receiving or is entitled to
23 receive retirement pension benefits under the provisions of
24 subsection (a) or both subsections (a) and (b), section
25 twenty-five of this article, shall die from any cause other
26 than as specified in subsection (b) of this section leaving in
27 either case surviving a dependent spouse to whom the marriage
28 took place prior to the date of such member's retirement on a
29 disability pension or a retirement pension, or any dependent
30 child or children under the age of eighteen years who were
31 born prior to or within ten months after the date of such mem-
32 ber's retirement on a disability pension or a retirement pension,
33 or dependent father or mother or both, or any dependent
34 brothers or sisters or both under the age of eighteen years; then
35 in any of the cases set forth above in (1) and (2) the board
36 of trustees of such pension and relief fund shall, immediately
37 following the death of such member, pay to or for each of such
38 entitled surviving dependents the following pension benefits
39 viz.: To such dependent spouse, until death or remarriage, a
40 sum per month equal to thirty percent of such member's average
41 monthly salary or compensation received during the three
42 twelve-consecutive-month periods, not necessarily consecutive,
43 each of such three periods beginning with the same calendar
44 month of different years and all such three periods falling
45 within the member's final five years of employment with such
46 department, in which such member received his highest salary
47 or compensation while a member of the department, herein-
48 after for convenience referred to in this section as "monthly
49 average," or an amount of one hundred dollars per month,
50 whichever shall be greater; to each such dependent child a sum
51 per month equal to ten percent of such monthly average, or
52 the sum of thirty dollars per month for each such child, which-
53 ever shall be greater, until such child shall attain the age of

54 eighteen years or marry, whichever first occurs; to each such
55 dependent orphaned child a sum per month equal to fifteen
56 percent of such monthly average, or the sum of forty-five
57 dollars per month for each such child, whichever shall be
58 greater, until such child shall attain the age of eighteen
59 years or marry, whichever first occurs; to each such
60 dependent father or mother a sum per month for each equal
61 to ten percent of such monthly average, or the sum of thirty
62 dollars per month for each such father and mother, which-
63 ever shall be greater; to each such dependent brother or sister
64 the sum of five dollars per month until such individual
65 shall attain the age of eighteen years or marry, whichever
66 first occurs but in no event shall the aggregate amount paid
67 to such brothers and sisters exceed thirty dollars per month;
68 but if at any time, because of the number of dependents, all
69 such dependents cannot be paid in full as herein provided,
70 then each dependent shall receive his pro rata share of such
71 payments: *Provided*, That in no case shall the payments to
72 the surviving spouse and children be cut below sixty-five per-
73 cent of the total amount to be paid to all dependents.

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

86 (c) If a member dies without leaving a dependent spouse,
87 child or children, or dependent father or mother, or dependent
88 brothers or sisters, his contributions to the fund plus six per-
89 cent interest shall be refunded to his named beneficiary or,
90 if no beneficiary has been named, to his estate to the extent
91 that such contributions plus interest exceed any disability

92 or retirement benefits that he may have received before his
93 death.

94 (d) The provisions of this section shall not be con-
95 strued as creating or establishing any contractual or vested
96 rights in favor of any individual who may be or become
97 qualified as a beneficiary of the death benefits herein authorized
98 to be made, all the provisions hereof and benefits provided
99 for hereunder being expressly subject to such subsequent
100 legislative enactments as may provide for any change, modi-
101 fication or elimination of the beneficiaries or benefits specified
102 herein.

**§8-22-27. General provisions concerning disability pensions, re-
retirement 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 ascertaining
3 certain disability pension benefits, all retirement pension bene-
4 fits and certain death benefits, the following provisions shall
5 be applicable:

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

9 (2) Any member of any paid police or fire department cov-
10 ered by the provisions of sections sixteen through twenty-eight
11 of this article who has been required to or shall at any future
12 time be required to enter the armed forces of the United
13 States by conscription, by reason of being a member of some
14 reserve unit of the armed forces or a member of the West
15 Virginia national guard or air national guard, whose reserve
16 unit or guard unit is called into active duty for one year or
17 more, or who enlists in one of the armed forces of the United
18 States during hostilities, and who upon receipt of an honorable
19 discharge from such armed forces presents himself for re-
20 sumption of duty to his appointing municipal official within
21 six months from his date of discharge, and is accepted by the
22 pension board's board of medical examiners as being mentally
23 and 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
30 the 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 pen-
34 sion and relief fund, on the effective date of this article, the
35 following provisions shall govern and control the amount of
36 such 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 nine
42 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 of
51 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 ef-
57 fective 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 form-
61 er member, who on June thirty, one thousand nine hundred
62 sixty-two, was receiving any death benefits from a police-
63 men'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
69 sum 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
76 sum of five dollars per month, until such individual shall
77 attain the age of eighteen years or marry, whichever first
78 occurs, but in no event shall the aggregate amount paid to
79 such brothers and sisters exceed thirty dollars per month;
80 but 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 or
89 after July one, one thousand nine hundred sixty-two, shall
90 continue to receive death benefits but on and after July one,
91 one thousand nine hundred seventy-one, shall receive the
92 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 pen-
97 sion benefits provided for in section twenty-four of this article.

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
5 imposed, on and after the first day of January, one thousand
6 nine hundred eighty-two, an additional premium tax equal
7 to one percent of gross direct premiums collected, less
8 premiums returned to policyholders because of cancellation
9 of policies, for fire insurance and casualty insurance
10 policies. Except as otherwise provided in this section, all
11 provisions of this article relating to the levy, imposition
12 and collection of the regular premium tax are applicable to
13 the levy, imposition and collection 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 dis-
19 tributed in accordance with the provisions of subsection (c)
20 of this section.

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

37 Before the first day of September, one thousand nine
38 hundred eighty-three, and before the first day of September
39 of each calendar year thereafter, the state auditor shall allo-

40 cate and authorize for distribution the revenues in the mu-
41 nicipal pensions and protection fund which were collected
42 during the preceding calendar year to municipal policemen's
43 and firemen's pension and relief funds and to volunteer and
44 part volunteer fire companies and departments. Seventy-five
45 percent of the aforementioned revenues allocated shall be
46 allocated to municipal policemen's and firemen's pension and
47 relief funds and twenty-five percent of such allocated reve-
48 nues shall be allocated to volunteer and part volunteer fire
49 companies and departments.

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

60 (2) Each volunteer fire company or department shall
61 receive an equal share of the revenues allocated for
62 volunteer and part volunteer fire companies and departments.

63 (3) In addition to the share allocated and distributed in
64 accordance with subdivision (1) of this subsection, each
65 municipal fire department composed of full-time paid members
66 and volunteers and part volunteer fire companies and de-
67 partments shall receive a share equal to the share distributed
68 to volunteer fire companies under subdivision (2) of this
69 subsection reduced by an amount equal to such share multiplied
70 by the ratio of the number of full-time paid fire department
71 members who are also members of a municipal firemen's
72 pension system to the total number of members of such fire de-
73 partment.

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

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

R. P. Baylor
Chairman Senate Committee

Joseph E. Whetlow
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jedd C. Welch
Clerk of the Senate

Carl Blankenship
Clerk of the House of Delegates

Waver R. McNew
President of the Senate

Walter H. Steele, Jr.
Speaker House of Delegates

The within *is approved* this the *29*
day of *March*, 1982.

Julius Zepher
Governor

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SECY. OF STATE