WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

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ENROLLED

HOUSE BILL No. 2414

(By Mr. Del Scavnit & Hollins)

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Passed April 8, 1989

In Effect From Passage
ENROLLED

H. B. 2414

(By Delegates Seacrist and Rollins)

[Passed April 8, 1989; in effect from passage.]

AN ACT to amend and reenact section twenty, 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 retirement benefits for certain municipal employees; requiring municipalities to contribute a minimum amount to its pension and relief funds as determined by the actuarial report; and providing that once the actuarial report determines there is no deficiency in these funds, municipalities are not then required to contribute funds from the municipal pensions and protection 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 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; POLICE-MEN'S PENSION AND RELIEF FUND; FIRE-MEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

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

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

(b) The actuarial valuation report shall consist of, but is not limited to, the following disclosures: (1) The financial objective of the fund and how the objective is to be attained, (2) the progress being made toward realization of the financial objective, (3) recent changes in the nature of the fund, benefits provided, or actuarial assumptions or methods, (4) the frequency of actuarial valuation reports and the date of the most recent actuarial valuation report, (5) the method used to value fund assets, (6) the extent to which the qualified actuary relies on the data provided and whether the data was certified by the fund's auditor or examined by the qualified actuary for reasonableness, (7) a description and explanation of the actuarial assumptions and methods, and (8) any other information the qualified actuary feels is necessary or would be useful in fully and fairly disclosing the actuarial condition of the fund.

(c) After the thirtieth day of June, one thousand nine hundred eighty-three, and thereafter, the financial objective of each municipality shall not be less than to contribute to the fund annually an amount which, together with the contributions from the members and the allocable portion of the state premium tax fund for municipal pension and relief funds established under section fourteen-d, article three, chapter thirty-three of this code and other income sources as authorized by law, will be sufficient to meet the normal cost of the fund and amortize any actuarial deficiency over a period not
more than forty years: Provided, That for those funds
in existence on the first day of July, one thousand nine
hundred eighty-one, its actuarial deficiency, if any, shall
not be amortized over a period longer than that which
remains under its current schedule. For purposes of
determining this minimum financial objective, (1) the
value of the fund's assets shall be determined on the
basis of any reasonable actuarial method of valuation
which takes into account fair market value, and (2) all
costs, deficiencies, rate of interest, and other factors
under the fund shall be determined on the basis of
actuarial assumptions and methods which, in aggregate,
are reasonable (taking into account the experience of the
fund and reasonable expectations) and which, in com-
bination, offer the qualified actuary's best estimate of
anticipated experience under the fund. If as a result of
this legislation a municipality's financial commitment to
the fund is materially increased, the municipality may
elect to phase in this increase over the five fiscal years
commencing the first day of July, one thousand nine
hundred eighty-three.

Notwithstanding any other provision of this section or
article to the contrary, each municipality shall contrib-
ute annually to the fund an amount which may not be
less than the normal cost, as determined by the actuarial
report.

(d) For purposes of this section the term “qualified
actuary” means only an actuary who is a member of the
society of actuaries or the American academy of
actuaries. The qualified actuary shall be designated a
fiduciary and shall discharge his duties with respect to
a fund solely in the interest of the members and
member's beneficiaries of that fund. In order for the
standards of this section to be met, the qualified actuary
shall certify that the actuarial valuation report is
complete and accurate and that in his opinion the
technique and assumptions used are reasonable and
meet the requirements of this section of this article.

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

(a) For the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and additional revenue for volunteer and part volunteer fire companies and departments, there is hereby levied and imposed, on and after the first day of January, one thousand nine hundred eighty-two, an additional premium tax equal to one percent of gross direct premiums collected, less premiums returned to policyholders because of cancellation of policies, for fire insurance and casualty insurance policies. For purposes of this section, casualty insurance shall not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular premium tax are applicable to the levy, imposition and collection of the additional tax.

All moneys collected from this additional tax shall be received by the commissioner and paid by him into a special account in the state treasury, designated the municipal pensions and protection fund. The net proceeds of this tax after appropriation thereof by the Legislature shall be distributed in accordance with the provisions of subsection (c) of this section.

(b) Before the first day of August, one thousand nine hundred eighty-three, and before the first day of August of each calendar year thereafter, the treasurer of each municipality in which a municipal policemen's or firemen's pension and relief fund has been established shall report to the state treasurer the average monthly number of members who worked at least one hundred
hours per month of municipal policemen's or firemen's pension systems during the preceding fiscal year. Before the first day of August, one thousand nine hundred eighty-three, and before the first day of August of each calendar year thereafter, the state fire marshal shall report to the state treasurer the names and addresses of all volunteer and part volunteer fire companies and departments within the state which meet the eligibility requirements established in section eight-a, article fifteen, chapter eight of this code.

Before the first day of September, one thousand nine hundred eighty-three, and before the first day of September of each calendar year thereafter, the state treasurer shall allocate and authorize for distribution the revenues in the municipal pensions and protection fund which were collected during the preceding calendar year to municipal policemen's and firemen's pension and relief funds and to volunteer and part volunteer fire companies and departments. Seventy-five percent of the aforementioned revenues allocated shall be allocated to municipal policemen's and firemen's pension and relief funds and twenty-five percent of such allocated revenues shall be allocated to volunteer and part volunteer fire companies and departments: Provided, That in any year the actuarial report required by section twenty, article twenty-two, chapter eight of this code indicates no actuarial deficiency in the municipal policemen's or firemen's pension and relief fund, no revenues may be allocated from the municipal pensions and protection fund to that fund. The revenues from the municipal pensions and protection fund shall then be allocated to all other pension funds which have an actuarial deficiency.

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

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

(3) In addition to the share allocated and distributed in accordance with subdivision (1) of this subsection, each municipal fire department composed of full-time paid members and volunteers and part volunteer fire companies and departments shall receive a share equal to the share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by an amount equal to such share multiplied by the ratio of the number of full-time paid fire department members who are also members of a municipal firemen’s pension system to the total number of members of such fire department.

(d) The allocation and distribution of revenues provided for in this section are subject to the provisions of section twenty, article twenty-two, and sections eight-a and eight-b, article fifteen, chapter eight of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 27th day of April, 1989.

Governor