

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992



ENROLLED

Com. Sub. for Com. Sub. for
SENATE BILL NO. 128

(By Senator *Selmick*)



PASSED *March 7* 1992

In Effect *July 1, 1992* ~~Passage~~

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SECRETARY OF STATE

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FOR

Senate Bill No. 128

(SENATOR HELMICK, *original sponsor*)

[Passed March 7, 1992; to take effect July 1, 1992.]

AN ACT to amend and reenact sections eight-a and eight-b, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article seven-a, chapter eighteen of said code by adding thereto three new sections, designated sections twenty-six-j, twenty-six-k and twenty-six-l; and to amend article three, chapter thirty-three of said code by adding thereto a new section designated section eighteen, relating to fire and casualty insurance; volunteer fire department fees; imposing a fire protection surcharge on fire insurance and casualty insurance policies to provide additional revenue to volunteer and part volunteer fire departments, certain retired teachers and the teachers retirement reserve fund.

Be it enacted by the Legislature of West Virginia:

That sections eight-a and eight-b, article fifteen, chapter eight of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, be amended and re-enacted; that article seven-a, chapter eighteen of said code be amended by adding thereto three new sections, designated sections twenty-six-j, twenty-six-k and twenty-six-l; and that article three, chapter thirty-three of said code be amended by adding thereto a new section, designated section eighteen, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

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

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

7 Each volunteer or part volunteer fire company or
8 department must:

9 (a) Submit and maintain current submission of fire
10 loss data to the state fire marshal, including verifica-
11 tion, by notarized statement, if no fire loss has
12 occurred;

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

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

§8-15-8b. Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

1 Revenues allocated to volunteer and part volunteer
2 fire companies and departments may be expended
3 only for the items listed in subdivisions (a) through (g)
4 of this section. Such expenditures may be made for
5 the following:

6 (a) Personal protective equipment, including protec-
7 tive head gear, bunker coats, pants, boots, combination
8 of bunker pants and boots, coats and gloves;

9 (b) Equipment for compliance with the national fire
10 protection standard or automotive fire apparatus,
11 NFPA-1901;

12 (c) Compliance with insurance service office recom-
13 mendations relating to fire departments;

14 (d) Rescue equipment, communications equipment
15 and ambulance equipment: *Provided*, That no moneys
16 received from the municipal pensions and protection
17 fund or the fire protection fund may be used for
18 equipment for personal vehicles owned or operated by
19 volunteer fire company or department members;

20 (e) Capital improvements reasonably required for
21 effective and efficient fire protection service and
22 maintenance thereof;

23 (f) Retirement of debts; and

24 (g) Payment of utility bills.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-26j. Supplemental benefits for certain teachers who retired prior to July 1, 1981.

1 As an additional supplement to other retirement
2 allowances provided, each annuitant whose annuity
3 was approved by the retirement board prior to the
4 first day of July, one thousand nine hundred eighty-
5 one, and such annuitant is not receiving supplemental

6 benefits pursuant to section twenty-six-i of this article,
7 shall receive a monthly amount equal to one dollar
8 and twenty-five cents multiplied by his or her total
9 service credit.

**§18-7A-26k. Supplemental benefits for certain teachers who
retired between July 1, 1981, and July 1, 1982.**

1 As an additional supplement to other retirement
2 allowances provided, each annuitant who retired
3 between the first day of July, one thousand nine
4 hundred eighty-one, and the first day of July, one
5 thousand nine hundred eighty-two, shall receive a
6 monthly amount equal to two dollars multiplied by his
7 or her total service credit.

**§18-7A-26l. Supplemental benefits for certain teachers who
retired prior to July 1, 1982.**

1 As an additional supplement to other retirement
2 allowances provided, each annuitant whose annuity
3 was approved by the retirement board prior to the
4 first day of July, one thousand nine hundred eighty-
5 two, and whose benefits were increased in the year
6 one thousand nine hundred ninety, pursuant to the
7 provisions of section twenty-six-i of this article, shall
8 receive a monthly amount equal to fifty cents multi-
9 plied by his or her total service credit.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

**§33-3-18. Surcharge on fire and casualty insurance policies
to benefit volunteer and part volunteer fire
departments; special fund created; allocation
of proceeds; effective date.**

1 (a) For the purpose of providing additional revenue
2 for volunteer and part volunteer fire departments,
3 certain retired teachers and the teachers retirement
4 reserve fund there is hereby authorized and imposed
5 on and after the first day of July, one thousand nine
6 hundred ninety-two, on the policyholder of any fire
7 and casualty insurance policy, a policy surcharge equal
8 to one percent of gross direct premium paid by the

9 policyholder for each such policy. For purposes of this
10 section, casualty insurance shall not include insurance
11 on the life of a debtor pursuant to or in connection
12 with a specific loan or other credit transaction or
13 insurance on a debtor to provide indemnity for
14 payments becoming due on a specific loan or other
15 credit transaction while the debtor is disabled as
16 defined in the policy. The policy surcharge shall not be
17 subject to premium taxes, agent commissions or any
18 other assessment against premiums.

19 The policy surcharge shall be collected and remitted
20 by the insurer to the commissioner on forms pre-
21 scribed by the commissioner on a quarterly basis and
22 are due on the twenty-fifth day of the month succeed-
23 ing the end of the quarter in which they are collected
24 except for the fourth quarter for which the surcharge
25 shall be due and payable on or before the first day of
26 March of the succeeding year. All forms required by
27 the commissioner shall be submitted under the oath of
28 the president and secretary of the insurer.

29 Any insurer failing or refusing to collect and remit
30 to the commissioner any policy surcharge and whose
31 surcharge payments are not postmarked by the due
32 dates for quarterly filing is liable for a civil penalty of
33 up to one hundred dollars for each day of delinquency,
34 to be assessed by the commissioner. The commissioner
35 may suspend the insurer until all surcharge payments
36 and penalties, should any penalty be imposed, are
37 remitted in full to the commissioner.

38 All moneys from the policy surcharge shall be
39 collected by the commissioner and he or she shall
40 disburse the money received from the surcharge as
41 follows;

42 (1) Fifty percent of the moneys collected shall be
43 paid into a special account in the state treasury,
44 designated the fire protection fund. The net proceeds
45 of this portion of the tax after appropriation by the
46 Legislature shall be distributed in accordance with the
47 provisions of subsection (c) of this section.

48 (2) The remaining fifty percent of the moneys

49 collected shall be transferred to the teachers retire-
50 ment system to be disbursed according to the provi-
51 sions of sections twenty-six-j, twenty-six-k and
52 twenty-six-l, article seven-a, chapter eighteen of this
53 code. Any balance remaining after the disbursements
54 authorized by this subdivision have been paid shall be
55 paid by the teachers retirement system into the
56 teachers retirement system reserve fund.

57 (b) Before the first day of September, one thousand
58 nine hundred ninety-three, and before the first day of
59 September of each calendar year thereafter, the state
60 treasurer shall allocate and authorize for distribution
61 the revenues in the fire protection fund that were
62 collected during the preceding calendar year, and the
63 interest earned thereon.

64 (c) Each volunteer fire company or department shall
65 receive on an equal share basis the revenues allocated
66 for volunteer and part volunteer fire companies and
67 departments under subdivisions (1), subsection (a) of
68 this section.

69 (d) The allocation, distribution and use of revenues
70 provided in the fire protection fund are subject to the
71 provisions of sections eight-a and eight-b, article
72 fifteen, chapter eight of this code.

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

Thomas Leck
.....
Chairman Senate Committee

Ernest E. Moore
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1992.

Parrell Edwards
.....
Clerk of the Senate

Donald G. Kopp
.....
Clerk of the House of Delegates

Paul Fontelle
.....
President of the Senate

Robert [unclear]
.....
Speaker House of Delegates

The within *is approved* this the *18th*
day of *April*, 1992.

Winston Clement
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/92

Time 4:40 pm