WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992

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ENROLLED

Comm. Sub. for Comm. Sub. for
SENATE BILL NO. 128

(By Senator Delmire)

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PASSED March 7, 1992

In 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, design-
ated 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 DEPART-
MENTS; CIVIL SERVICE FOR PAID FIRE
DEPARTMENTS.

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

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

Each volunteer or part volunteer fire company or
department must:

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

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

(c) Comply with all applicable federal and state laws.
§8-15m8b. Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

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

(a) Personal protective equipment, including protective head gear, bunker coats, pants, boots, combination of bunker pants and boots, coats and gloves;

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

(c) Compliance with insurance service office recommendations relating to fire departments;

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

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

(f) Retirement of debts; and

(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 allowances provided, each annuitant whose annuity was approved by the retirement board prior to the first day of July, one thousand nine hundred eighty-one, and such annuitant is not receiving supplemental
benefits pursuant to section twenty-six-i of this article, shall receive a monthly amount equal to one dollar and twenty-five cents multiplied by his or her total service credit.


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

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

As an additional supplement to other retirement allowances provided, each annuitant whose annuity was approved by the retirement board prior to the first day of July, one thousand nine hundred eighty-two, and whose benefits were increased in the year one thousand nine hundred ninety, pursuant to the provisions of section twenty-six-i of this article, shall receive a monthly amount equal to fifty cents multiplied 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.

(a) For the purpose of providing additional revenue for volunteer and part volunteer fire departments, certain retired teachers and the teachers retirement reserve fund there is hereby authorized and imposed on and after the first day of July, one thousand nine hundred ninety-two, on the policyholder of any fire and casualty insurance policy, a policy surcharge equal to one percent of gross direct premium paid by the
policyholder for each such policy. 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. The policy surcharge shall not be subject to premium taxes, agent commissions or any other assessment against premiums.

The policy surcharge shall be collected and remitted by the insurer to the commissioner on forms prescribed by the commissioner on a quarterly basis and are due on the twenty-fifth day of the month succeeding the end of the quarter in which they are collected except for the fourth quarter for which the surcharge shall be due and payable on or before the first day of March of the succeeding year. All forms required by the commissioner shall be submitted under the oath of the president and secretary of the insurer.

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

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

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

(2) The remaining fifty percent of the moneys
collected shall be transferred to the teachers retirement system to be disbursed according to the provisions of sections twenty-six-j, twenty-six-k and twenty-six-l, article seven-a, chapter eighteen of this code. Any balance remaining after the disbursements authorized by this subdivision have been paid shall be paid by the teachers retirement system into the teachers retirement system reserve fund.

(b) Before the first day of September, one thousand nine hundred ninety-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 fire protection fund that were collected during the preceding calendar year, and the interest earned thereon.

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

(d) The allocation, distribution and use of revenues provided in the fire protection fund are subject to the provisions of 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

Originated in the Senate.

To take effect July 1, 1992.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ... approved ... this the ... day of April, 1992.

Governor