WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 33

(By Senator _____________)

PASSED _______April 12_______, 1997
In Effect _______Ninety Days From_______ Passage
ENROLLED

Senate Bill No. 33

(BY SENATORS ROSS, ANDERSON, SNYDER, HUNTER, SHARPE AND BALL)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact sections fourteen-d and thirty-three, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the allocation of proceeds from the premium tax on fire and casualty insurance policies to volunteer and part volunteer fire departments and the teachers retirement system; altering the allocation of proceeds to municipal policemen’s or firemen’s pension and relief funds; and providing for a quarterly disbursement of such proceeds.

Be it enacted by the Legislature of West Virginia:

That sections fourteen-d and thirty-three, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reen-
acted, all to read as follows:

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 the teachers retirement system reserve fund and for volunteer and part volunteer fire companies and departments, there is hereby levied and imposed 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 does 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 set forth in this section.

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 this section.

(b) (1) 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 and the average monthly number of retired members of municipal policemen's or firemen's pension systems during the
(2) Before the first day of September of each calendar year, 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 for the purposes set forth in this section. Sixty-five percent of the revenues shall be allocated to municipal policemen’s and firemen’s pension and relief funds; twenty-five percent of the revenues shall be allocated to volunteer and part volunteer fire companies and departments; and ten percent of such allocated revenues shall be allocated to the teachers retirement system reserve fund created by section eighteen, article seven-a, chapter eighteen of this code: 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.

(3) The moneys, and the interest earned thereon, in the municipal pensions and protection fund allocated to volunteer and part volunteer fire companies and departments shall be allocated and distributed quarterly to the volunteer fire companies and departments. Before each distribution date, 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.

(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. On and after the
first day of July, one thousand nine hundred ninety-seven, from the growth in any moneys collected pursuant to the tax imposed by this section there shall be allocated and authorized for distribution to each municipal pension and relief fund, a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based upon the corresponding municipalities average number of members who worked at least one hundred hours per month and average monthly number of retired members. For the purposes of this subsection, the growth in moneys collected from the tax collected pursuant to this section shall be determined by subtracting the amount of the tax collected during the fiscal year ending the thirtieth day of June, one thousand nine hundred ninety-six, from the tax collected during the fiscal year for which the allocation is being made. All moneys received by municipal pension and relief funds under this section may be expended only for those purposes described in sections sixteen through twenty-eight, inclusive, 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.
§33-3-33. Surcharges 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.
One half of all money from the policy surcharge shall be collected by the commissioner who shall disburse the money received from the surcharge 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. 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. The payments hereinabove provided shall be paid on the first day of the months of January, April, July and October of one thousand nine hundred ninety-eight and each year thereafter.

(b) The moneys, and the interest earned thereon, in the fire protection fund shall be allocated among and distributed quarterly to all volunteer and part volunteer fire departments by the state treasurer. Before each distribution date, 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.

(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 subdivision (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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within ................. this the ..........
day of ........................., 1997.

[Signature]
Governor