

FILED

2015 MAR 24 P 5:09

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SB514

—●—
ENROLLED

Senate Bill No. 514

(BY SENATORS GAUNCH AND PLYMALE)

[PASSED MARCH 13, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

FILED

2015 MAR 24 P 5:09

ENROLLED

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Senate Bill No. 514

(BY SENATORS GAUNCH AND PLYMALE)

[Passed March 13, 2015; in effect ninety day from passage.]

AN ACT to amend and reenact §33-3-14d of the Code of West Virginia, 1931, as amended, relating to investments by local policemen's and firemen's pension and relief fund boards; requiring annual review of investment performance; requiring investment with the Investment Management Board in certain circumstances; and reallocating certain tax revenue in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §33-3-14d of the Code of West Virginia, 1931, as amended, be amended and reenacted 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.

- 1 (a) (1) For the purpose of providing additional revenue
- 2 for municipal policemen's and firemen's pension and relief
- 3 funds and the Teachers Retirement System Reserve Fund and
- 4 for volunteer and part-volunteer fire companies and

5 departments, there is hereby levied and imposed an additional
6 premium tax equal to one percent of taxable premiums for
7 fire insurance and casualty insurance policies. For purposes
8 of this section, casualty insurance does not include insurance
9 on the life of a debtor pursuant to or in connection with a
10 specific loan or other credit transaction or insurance on a
11 debtor to provide indemnity for payments becoming due on
12 a specific loan or other credit transaction while the debtor is
13 disabled as defined in the policy.

14 (2) All moneys collected from this additional tax shall be
15 received by the commissioner and paid by him or her into a
16 special account in the State Treasury, designated the Municipal
17 Pensions and Protection Fund: *Provided*, That on or after
18 January 1, 2010, the commissioner shall pay ten percent of the
19 amount collected to the Teachers Retirement System Reserve
20 Fund created in section eighteen, article seven-a, chapter
21 eighteen of this code, twenty-five percent of the amount
22 collected to the Fire Protection Fund created in section
23 thirty-three of this article for allocation by the Treasurer to
24 volunteer and part-volunteer fire companies and departments
25 and sixty-five percent of the amount collected to the Municipal
26 Pensions and Protection Fund: *Provided, however*, That upon
27 notification by the Municipal Pensions Oversight Board
28 pursuant to the provisions of section eighteen-b, article
29 twenty-two, chapter eight of this code, on or after January 1,
30 2010, or as soon thereafter as the Municipal Pensions
31 Oversight Board is prepared to receive the funds, sixty-five
32 percent of the amount collected by the commissioner shall be
33 deposited in the Municipal Pensions Security Fund created in
34 section eighteen-b, article twenty-two, chapter eight of this
35 code. The net proceeds of this tax after appropriation thereof
36 by the Legislature is distributed in accordance with the
37 provisions of this section, except for distribution from proceeds
38 pursuant to subsection (d), section eighteen-a, article
39 twenty-two, chapter eight of this code.

40 (b) (1) Before ~~the~~ August 1 of each year, the treasurer of
41 each municipality in which a municipal policemen's or
42 firemen's pension and relief fund is established shall report
43 to the State Treasurer the average monthly number of
44 members who worked at least one hundred hours per month
45 and the average monthly number of retired members of
46 municipal policemen's or firemen's pension and relief fund
47 or the Municipal Police Officers and Firefighters Retirement
48 System during the preceding fiscal year: *Provided*, That
49 beginning in the year 2010 and continuing thereafter, the
50 report shall be made to the oversight board created in section
51 eighteen-a, article twenty-two, chapter eight of this code.
52 These reports received by the oversight board shall be
53 provided annually to the State Treasurer by September 1.

54 (2) Before September 1 of each calendar year, the State
55 Treasurer, or the Municipal Pensions Oversight Board, once
56 in operation, shall allocate and authorize for distribution the
57 revenues in the Municipal Pensions and Protection Fund
58 which were collected during the preceding calendar year for
59 the purposes set forth in this section. Before September 1 of
60 each calendar year and after the Municipal Pensions
61 Oversight Board has notified the Treasurer and commissioner
62 pursuant to section eighteen-b, article twenty-two, chapter
63 eight of this code, the Municipal Pensions Oversight Board
64 shall allocate and authorize for distribution the revenues in
65 the Municipal Pensions Security Fund which were collected
66 during the preceding calendar year for the purposes set forth
67 in this section. In any year the actuarial report required by
68 section twenty, article twenty-two, chapter eight of this code
69 indicates no actuarial deficiency in the municipal policemen's
70 or firemen's pension and relief fund, no revenues may be
71 allocated from the Municipal Pensions and Protection Fund
72 or the Municipal Pensions Security Fund to that fund. The
73 revenues from the Municipal Pensions and Protection Fund
74 shall then be allocated to all other pension and relief funds
75 which have an actuarial deficiency.

76 (3) The Municipal Pensions Oversight Board shall
77 annually review the investment performance of each
78 municipal policemen's or firemen's pension and relief fund.
79 If the municipal pension and relief fund's board fails for three
80 consecutive years to comply with the investment provisions
81 established by section twenty-two-a, article twenty-two,
82 chapter eight of this code, the oversight board may require
83 the municipal policemen's or firemen's pension and relief
84 fund to invest with the Investment Management Board to
85 continue to receive its allocation of funds from the premium
86 tax. If the municipal pension and relief fund fails to move its
87 investments to the Investment Management Fund within the
88 eighteen-month drawdown period, provided in subsection (e),
89 section nineteen, article twenty-two, chapter eight of this
90 code, the revenues shall be reallocated to all other municipal
91 policemen's or firemen's pension and relief funds that have
92 drawn down one hundred percent of their allocations.

93 (4) The moneys, and the interest earned thereon, in the
94 Municipal Pensions and Protection Fund allocated to
95 volunteer and part-volunteer fire companies and departments
96 shall be allocated and distributed quarterly to the volunteer
97 fire companies and departments. Before each distribution
98 date, the State Fire Marshal shall report to the State Treasurer
99 the names and addresses of all volunteer and part-volunteer
100 fire companies and departments within the state which meet
101 the eligibility requirements established in section eight-a,
102 article fifteen, chapter eight of this code.

103 (c) (1) Each municipal pension and relief fund shall have
104 allocated and authorized for distribution a pro rata share of the
105 revenues allocated to municipal policemen's and firemen's
106 pension and relief funds based on the corresponding
107 municipality's average monthly number of police officers and
108 firefighters who worked at least one hundred hours per month
109 during the preceding fiscal year. On and after July 1, 1997,

110 from the growth in any moneys collected pursuant to the tax
111 imposed by this section and interest thereon there shall be
112 allocated and authorized for distribution to each municipal
113 pension and relief fund, a pro rata share of the revenues
114 allocated to municipal policemen's and firemen's pension and
115 relief funds based on the corresponding municipality's average
116 number of police officers and firefighters who worked at least
117 one hundred hours per month and average monthly number of
118 retired police officers and firefighters. For the purposes of this
119 subsection, the growth in moneys collected from the tax
120 collected pursuant to this section is determined by subtracting
121 the amount of the tax collected during the fiscal year ending
122 June 30, 1996, from the tax collected during the fiscal year for
123 which the allocation is being made and interest thereon. All
124 moneys received by municipal pension and relief funds under
125 this section may be expended only for those purposes described
126 in sections sixteen through twenty-eight, inclusive, article
127 twenty-two, chapter eight of this code.

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

131 (3) In addition to the share allocated and distributed in
132 accordance with subdivision (1) of this subsection, each
133 municipal fire department composed of full-time paid members
134 and volunteers and part-volunteer fire companies and
135 departments shall receive a share equal to the share distributed
136 to volunteer fire companies under subdivision (2) of this
137 subsection reduced by an amount equal to the share multiplied
138 by the ratio of the number of full-time paid fire department
139 members who are also members of a municipal firemen's
140 pension and relief fund or the Municipal Police Officers and
141 Firefighters Retirement System to the total number of members
142 of the fire department.

143 (d) The allocation and distribution of revenues provided in
144 this section are subject to the provisions of section twenty,
145 article twenty-two, chapter eight of this code and sections
146 eight-a and eight-b, article fifteen of said chapter.

147 (e) Based upon the findings of an audit by the Treasurer,
148 the Legislature hereby finds and declares that during the period
149 of 1982 through April 27, 2012, allocations from the Municipal
150 Pensions and Protection Fund were miscalculated and errors
151 were made in amounts transferred, resulting in overpayments
152 and underpayments to the relief and pension funds and to the
153 Teachers Retirement System, and that the relief and pension
154 funds and the Teachers Retirement System were not at fault for
155 any of the overpayments and underpayments. The Legislature
156 hereby further finds and declares that any attempt by the
157 Municipal Pension Oversight Board or other entity to recover
158 any of the overpayments would be unjust and create economic
159 hardship for the entities that received overpayments. No entity,
160 including, without limitation, the Municipal Pension Oversight
161 Board, may seek to recover from a relief or pension fund, the
162 Teachers Retirement System or the state any overpayments
163 received from the Municipal Pensions and Protection Fund and
164 the overpayments are not subject to recovery, offset or
165 litigation. Pursuant to the audit by the Treasurer, the amount of
166 \$3,631,846.55 is determined owed to specific relief and pension
167 funds through the period of April 27, 2012. The Treasurer is
168 hereby authorized to transfer the amount of \$3,631,846.55 from
169 the Unclaimed Property Trust Fund to the Municipal Pensions
170 and Protection Fund, which is hereby reopened for the sole
171 purpose of the transfer and remittances pursuant to this
172 subsection, and to use the amount transferred to remit the
173 amounts due to the pension and relief funds. The payment of
174 \$3,631,846.55 to the pension and relief funds is complete
175 satisfaction of any amounts due and no entity, including,
176 without limitation, the Municipal Pension Oversight Board and
177 any pension or relief fund, may seek to recover any further
178 amounts.

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

Paul W. Blanton
.....
Chairman Senate Committee

Don B. V.L.
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark B. Barrett
.....
Clerk of the Senate

Scott J. Harris
.....
Clerk of the House of Delegates

William P. Holcomb
.....
President of the Senate

Robert M. Latta
.....
Speaker of the House of Delegates

The within *is approved*..... this the *24th*
Day of *March*....., 2015.

Earl Ray Tombs
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2015

Time 11:20 am