WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

ENROLLED

Senate Bill No. 515
(BY SENATORS GAUNCH AND PLYMALE)

[PASSED MARCH 13, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]
AN ACT to amend and reenact §8-22-18a and §8-22-18b of the Code of West Virginia, 1931, as amended, all relating to Municipal Pensions Oversight Board; and retention, allocation, distribution and investment of funds.

Be it enacted by the Legislature of West Virginia:

That §8-22-18a and §8-22-18b of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

§8-22-18a. West Virginia Municipal Pensions Oversight Board created; powers and duties; management; composition; terms; quorum; expenses; reports.

1 (a) (1) The West Virginia Municipal Pensions Oversight Board, established in 2009, is hereby continued as a public
body corporate for the purpose of monitoring and improving
the performance of municipal policemen's and firemen's
pension and relief funds to assure prudent administration,
investment and management of the funds. Management of
the oversight board shall be vested solely in the members of
the oversight board. Duties of the oversight board shall
include, but not be limited to, assisting municipal boards of
trustees in performing their duties, assuring the funds’
compliance with applicable laws, providing for actuarial
studies, distributing tax revenues to the funds, initiating or
joining legal actions on behalf of active or retired pension
fund members or municipal boards of trustees to protect
interests of the members in the funds and taking other actions
as may be reasonably necessary to provide for the security
and fiscal integrity of the pension funds. The oversight
board's authority to initiate legal action does not preempt the
authority of municipalities, municipal policemen's and
firemen's boards of trustees or pension fund active members,
beneficiaries or others to initiate legal action to protect
interests in the funds. Further, the oversight board may, in its
discretion, investigate the actions or practices of municipal
boards of trustees or of their administrators or employees
that, in the oversight board's judgment, have the potential to
threaten the security or fiscal integrity of the pension funds,
and the boards of trustees, administrators and employees shall
cooperate with the oversight board in any investigation.
Regardless of whether it has previously conducted an
investigation, the oversight board may initiate or intervene in
legal actions to challenge or prevent any action or practice
which, in the oversight board's judgment, has the potential to
threaten the security or fiscal integrity of the pension funds.
Establishment of the oversight board does not relieve the
municipal funds' boards of trustees from their fiduciary and
other duties to the funds, nor does it create any liability for
the funds on the part of the state. The failure of the oversight
board to investigate or initiate legal actions regarding the
actions or practices of municipal boards of trustees, their
administrators or employees does not render the oversight
board liable for the actions or practices. Members and
employees of the oversight board are not liable personally,
either jointly or severally, for debts or obligations of the
municipal pension and relief funds. Except as otherwise
provided herein, members and employees of the oversight
board have a fiduciary duty toward the municipal pension and
relief funds and are liable for malfeasance or gross
negligence. Employees of the oversight board are
classified-exempt state employees.

(2) The oversight board shall consist of nine members.
The Executive Director of the state’s Investment
Management Board and the Executive Director of the state’s
Consolidated Public Retirement Board, or their designees,
shall serve as voting ex officio members. The other seven
members shall be citizens of the state who have been
qualified electors of the state for a period of at least one year
next preceding their appointment and shall be as follows: An
active or retired member of a Municipal Policemen’s Pension
and Relief Fund chosen from a list of three persons submitted
to the Governor by the state’s largest professional municipal
police officers organization, an active or retired member of a
Municipal Firemen’s Pension and Relief Fund chosen from
a list of three persons submitted to the Governor by the
state’s largest professional firefighters organization, an
attorney experienced in finance and investment matters
related to pensions management, two persons experienced in
pension funds management, one person who is a certified
public accountant experienced in auditing and one person
chosen from a list of three persons submitted to the Governor
by the state’s largest association of municipalities.

(3) On the effective date of the enactment of this section
as amended during the fourth extraordinary session of the
Legislature in 2009, the Governor shall forthwith appoint the members, with the advice and consent of the Senate. The Governor may remove any member from the oversight board for neglect of duty, incompetency or official misconduct.

(b) The oversight board has the power to:

(1) Enter into contracts, to sue and be sued, to implead and be impleaded;

(2) Promulgate and enforce bylaws and rules for the management and conduct of its affairs;

(3) Maintain accounts and invest those funds which the oversight board is charged with receiving and distributing. Investment of those funds may be with the Board of Treasury Investments or the Investment Management Board at the discretion of the oversight board;

(4) Make, amend and repeal bylaws, rules and procedures consistent with the provisions of this article and chapter thirty-three of this code;

(5) Notwithstanding any other provision of law, retain or employ, fix compensation, prescribe duties and pay expenses of legal, accounting, financial, investment, management and other staff, advisors or consultants as it considers necessary, including the hiring of legal counsel and actuary; and

(6) Do all things necessary and appropriate to implement and operate the board in performance of its duties. Expenses shall be paid from the moneys in the Municipal Pensions Security Fund created in section eighteen-b of this article or, prior to the transition provided in section eighteen-b of this article, the Municipal Pensions and Protection Fund: Provided, That the board may request special appropriation
for special projects. The oversight board is exempt from provisions of article three, chapter five-a of this code for the purpose of contracting for actuarial services, including the services of a reviewing actuary.

(c) Except for ex officio members, the terms of oversight board members shall be staggered initially from January 1, 2010. The Governor shall appoint initially one member for a term of one year, one member for a term of two years, two members for terms of three years, one member for a term of four years and two members for terms of five years. Subsequent appointments shall be for terms of five years. A member serving two full consecutive terms may not be reappointed for one year after completion of his or her second full term. Each member shall serve until that member’s successor is appointed and qualified. Any member may be removed by the Governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office. Any vacancy on the oversight board shall be filled by appointment by the Governor for the balance of the unexpired term.

(d) A majority of the full authorized membership of the oversight board constitutes a quorum. The board shall meet at least quarterly each year, but more often as duties require, at times and places that it determines. The oversight board shall elect a chairperson and a vice chairperson from their membership who shall serve for terms of two years and shall select annually a secretary/treasurer who may be either a member or employee of the board. The oversight board shall employ an executive director and other staff as needed and shall fix their duties and compensation. The compensation of the executive director shall be subject to approval of the Governor. Except for any special appropriation as provided in subsection (b) of this section, all personnel and other expenses of the board shall be paid from revenue collected and allocated for municipal policemen’s or municipal
fifteen-d, article three, chapter thirty-three of this code and
distributed through the Municipal Pensions and Protection
Fund or the Municipal Pensions Security Fund created in
section eighteen-b of this article. Expenses during the initial
year of the board’s operation shall be from proceeds of the
allocation for the municipal pensions and relief funds.
Expenditures in years thereafter shall be by appropriation
from the Municipal Pensions Security Fund. Money
allocated for municipal policemen’s and firemen’s pension
and relief funds to be distributed from the Municipal
Pensions and Protection Fund or the Municipal Pensions
Security Fund shall be first allocated to pay expenses of the
oversight board and the remainder in the fund distributed
among the various municipal pension and relief funds as
provided in section fourteen-d, article three, chapter
thirty-three of this code. The board is exempt from the
provisions of sections seven and eleven, article three, chapter
twelve of this code relating to compensation and expenses of
members, including travel expenses.

(e) Members of the oversight board shall serve the board
without compensation for their services: Provided, That no
public employee member may suffer any loss of salary or
wages on account of his or her service on the board. Each
member of the board shall be reimbursed, on approval of the
board, for any necessary expenses actually incurred by the
member in carrying out his or her duties. All reimbursement
of expenses shall be paid out of the Municipal Pensions
Security Fund.

(f) The board may contract with other state boards or
state agencies to share offices, personnel and other
administrative functions as authorized under this article:
Provided, That no provision of this subsection may be
construed to authorize the board to contract with other state
boards or state agencies to otherwise perform the duties or exercise the responsibilities imposed on the board by this code.

(g) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code as necessary to implement the provisions of this article, and may initially promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code.

(h) The oversight board shall report annually to the Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement concerning the status of municipal policemen's and firemen's pension and relief funds and shall present recommendations for strengthening and protecting the funds and the benefit interests of the funds' members.

(i) The oversight board shall cooperate with the West Virginia Investment Management Board and the Board of Treasury Investments to educate members of the local pension boards of trustees on the services offered by the two state investment boards. No later than October 31, 2013, the board shall report to the Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement a detailed comparison of returns on long-term investments of moneys held by or allocated to municipal pension and relief funds managed by the West Virginia Investment Management Board and those managed by others than the Investment Management Board. The oversight board shall also report at that time on short-term investment returns by local pension boards using the West Virginia Board of Treasury Investments compared to short-term investment returns by those local boards of trustees not using the Board of Treasury Investments.
(j) The oversight board shall establish minimum requirements for training to be completed by each member of the board of trustees of a Municipal Policemen's or Firemen's Pension and Relief Fund. The requirements should include, but not be limited to, training in ethics, fiduciary duty and investment responsibilities.

§8-22-18b. Creation of Municipal Pensions Security Fund; transfer of certain powers, duties and functions of Treasurer's office to Municipal Pensions Oversight Board.

(a) The Legislature finds that an important part of oversight of municipal policemen's and firemen's pension and relief funds is monitoring the performance required of the various funds to qualify to receive distribution of insurance premium tax revenues provided by section fourteen-d, article three, chapter thirty-three of this code. The duties and functions of the State Treasurer's office with respect to monitoring and distribution are transferred from the State Treasurer's office to the West Virginia Municipal Pensions Oversight Board effective January 1, 2010: Provided, That until the oversight board is fully organized and operating, some duties and functions being performed by the State Treasurer's office prior to January 1, 2010, may be continued by that office temporarily as necessary to effect an orderly transition of responsibilities and provide for prompt distribution of the insurance premium tax proceeds for expenses of the oversight board and to the municipal policemen's and firemen's pension and relief funds.

(b) There is hereby created in the State Treasury a nonexpiring Special Revenue Fund designated the West Virginia Municipal Pensions Security Fund which shall be administered by the West Virginia Municipal Pensions Oversight Board solely for the purposes as provided in this article and article three, chapter thirty-three of this code. All
earnings shall accrue to and be retained by the fund unless otherwise provided in this article.

(c) Until the oversight board advises the Insurance Commissioner and the State Treasurer in writing that the oversight board is prepared to receive into and distribute from the West Virginia Municipal Pensions Security Fund premium tax revenues as provided in section fourteen-d, article three, chapter thirty-three of this code and section seven, article twelve-c of said chapter, the commissioner shall continue to transfer the funds into the Municipal Pensions and Protection Fund and the State Treasurer shall continue to disburse funds to the qualifying municipal pension and relief funds, and shall disburse funds as necessary for the establishment and early operation of the oversight board. The Insurance Commissioner, the State Treasurer and oversight board shall share information freely as required for efficient transfer of powers and duties related to the premium tax revenues generated pursuant to chapter thirty-three of this code to be allocated to the municipal policemen’s and firemen’s pension and relief funds. When the oversight board assumes full responsibility to receive funds into and disburse funds from the Municipal Pensions Security Fund, the State Treasurer shall transfer to it all funds remaining in the Municipal Pensions and Protection Fund and close the Municipal Pensions and Protection Fund.
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.

In effect ninety days 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 24th Day of March, 2015.

Governor