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**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-SECOND LEGISLATURE**  
**REGULAR SESSION, 2015**

OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

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**ENROLLED**

**Senate Bill No. 515**

(BY SENATORS GAUNCH AND PLYMALE)

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

SB515

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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
- 2 Board, established in 2009, is hereby continued as a public

3 body corporate for the purpose of monitoring and improving  
4 the performance of municipal policemen's and firemen's  
5 pension and relief funds to assure prudent administration,  
6 investment and management of the funds. Management of  
7 the oversight board shall be vested solely in the members of  
8 the oversight board. Duties of the oversight board shall  
9 include, but not be limited to, assisting municipal boards of  
10 trustees in performing their duties, assuring the funds'  
11 compliance with applicable laws, providing for actuarial  
12 studies, distributing tax revenues to the funds, initiating or  
13 joining legal actions on behalf of active or retired pension  
14 fund members or municipal boards of trustees to protect  
15 interests of the members in the funds and taking other actions  
16 as may be reasonably necessary to provide for the security  
17 and fiscal integrity of the pension funds. The oversight  
18 board's authority to initiate legal action does not preempt the  
19 authority of municipalities, municipal policemen's and  
20 firemen's boards of trustees or pension fund active members,  
21 beneficiaries or others to initiate legal action to protect  
22 interests in the funds. Further, the oversight board may, in its  
23 discretion, investigate the actions or practices of municipal  
24 boards of trustees or of their administrators or employees  
25 that, in the oversight board's judgment, have the potential to  
26 threaten the security or fiscal integrity of the pension funds,  
27 and the boards of trustees, administrators and employees shall  
28 cooperate with the oversight board in any investigation.  
29 Regardless of whether it has previously conducted an  
30 investigation, the oversight board may initiate or intervene in  
31 legal actions to challenge or prevent any action or practice  
32 which, in the oversight board's judgment, has the potential to  
33 threaten the security or fiscal integrity of the pension funds.  
34 Establishment of the oversight board does not relieve the  
35 municipal funds' boards of trustees from their fiduciary and  
36 other duties to the funds, nor does it create any liability for  
37 the funds on the part of the state. The failure of the oversight  
38 board to investigate or initiate legal actions regarding the

39 actions or practices of municipal boards of trustees, their  
40 administrators or employees does not render the oversight  
41 board liable for the actions or practices. Members and  
42 employees of the oversight board are not liable personally,  
43 either jointly or severally, for debts or obligations of the  
44 municipal pension and relief funds. Except as otherwise  
45 provided herein, members and employees of the oversight  
46 board have a fiduciary duty toward the municipal pension and  
47 relief funds and are liable for malfeasance or gross  
48 negligence. Employees of the oversight board are  
49 classified-exempt state employees.

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

71 (3) On the effective date of the enactment of this section  
72 as amended during the fourth extraordinary session of the

73 Legislature in 2009, the Governor shall forthwith appoint the  
74 members, with the advice and consent of the Senate. The  
75 Governor may remove any member from the oversight board  
76 for neglect of duty, incompetency or official misconduct.

77 (b) The oversight board has the power to:

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

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

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

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

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

95 (6) Do all things necessary and appropriate to implement  
96 and operate the board in performance of its duties. Expenses  
97 shall be paid from the moneys in the Municipal Pensions  
98 Security Fund created in section eighteen-b of this article or,  
99 prior to the transition provided in section eighteen-b of this  
100 article, the Municipal Pensions and Protection Fund:  
101 *Provided*, That the board may request special appropriation

102 for special projects. The oversight board is exempt from  
103 provisions of article three, chapter five-a of this code for the  
104 purpose of contracting for actuarial services, including the  
105 services of a reviewing actuary.

106 (c) Except for ex officio members, the terms of oversight  
107 board members shall be staggered initially from January 1,  
108 2010. The Governor shall appoint initially one member for  
109 a term of one year, one member for a term of two years, two  
110 members for terms of three years, one member for a term of  
111 four years and two members for terms of five years.  
112 Subsequent appointments shall be for terms of five years. A  
113 member serving two full consecutive terms may not be  
114 reappointed for one year after completion of his or her second  
115 full term. Each member shall serve until that member's  
116 successor is appointed and qualified. Any member may be  
117 removed by the Governor in case of incompetency, neglect of  
118 duty, gross immorality or malfeasance in office. Any  
119 vacancy on the oversight board shall be filled by appointment  
120 by the Governor for the balance of the unexpired term.

121 (d) A majority of the full authorized membership of the  
122 oversight board constitutes a quorum. The board shall meet  
123 at least quarterly each year, but more often as duties require,  
124 at times and places that it determines. The oversight board  
125 shall elect a chairperson and a vice chairperson from their  
126 membership who shall serve for terms of two years and shall  
127 select annually a secretary/treasurer who may be either a  
128 member or employee of the board. The oversight board shall  
129 employ an executive director and other staff as needed and  
130 shall fix their duties and compensation. The compensation of  
131 the executive director shall be subject to approval of the  
132 Governor. Except for any special appropriation as provided  
133 in subsection (b) of this section, all personnel and other  
134 expenses of the board shall be paid from revenue collected  
135 and allocated for municipal policemen's or municipal

136 firemen's pension and relief funds pursuant to section  
137 fourteen-d, article three, chapter thirty-three of this code and  
138 distributed through the Municipal Pensions and Protection  
139 Fund or the Municipal Pensions Security Fund created in  
140 section eighteen-b of this article. Expenses during the initial  
141 year of the board's operation shall be from proceeds of the  
142 allocation for the municipal pensions and relief funds.  
143 Expenditures in years thereafter shall be by appropriation  
144 from the Municipal Pensions Security Fund. Money  
145 allocated for municipal policemen's and firemen's pension  
146 and relief funds to be distributed from the Municipal  
147 Pensions and Protection Fund or the Municipal Pensions  
148 Security Fund shall be first allocated to pay expenses of the  
149 oversight board and the remainder in the fund distributed  
150 among the various municipal pension and relief funds as  
151 provided in section fourteen-d, article three, chapter  
152 thirty-three of this code. The board is exempt from the  
153 provisions of sections seven and eleven, article three, chapter  
154 twelve of this code relating to compensation and expenses of  
155 members, including travel expenses.

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

165 (f) The board may contract with other state boards or  
166 state agencies to share offices, personnel and other  
167 administrative functions as authorized under this article:  
168 *Provided*, That no provision of this subsection may be  
169 construed to authorize the board to contract with other state

170 boards or state agencies to otherwise perform the duties or  
171 exercise the responsibilities imposed on the board by this  
172 code.

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

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

186 (i) The oversight board shall cooperate with the West  
187 Virginia Investment Management Board and the Board of  
188 Treasury Investments to educate members of the local  
189 pension boards of trustees on the services offered by the two  
190 state investment boards. No later than October 31, 2013, the  
191 board shall report to the Joint Committee on Government and  
192 Finance and the Joint Committee on Pensions and Retirement  
193 a detailed comparison of returns on long-term investments of  
194 moneys held by or allocated to municipal pension and relief  
195 funds managed by the West Virginia Investment Management  
196 Board and those managed by others than the Investment  
197 Management Board. The oversight board shall also report at  
198 that time on short-term investment returns by local pension  
199 boards using the West Virginia Board of Treasury  
200 Investments compared to short-term investment returns by  
201 those local boards of trustees not using the Board of Treasury  
202 Investments.



203 (j) The oversight board shall establish minimum  
204 requirements for training to be completed by each member of  
205 the board of trustees of a Municipal Policemen's or Firemen's  
206 Pension and Relief Fund. The requirements should include,  
207 but not be limited to, training in ethics, fiduciary duty and  
208 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.**

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

19 (b) There is hereby created in the State Treasury a  
20 nonexpiring Special Revenue Fund designated the West  
21 Virginia Municipal Pensions Security Fund which shall be  
22 administered by the West Virginia Municipal Pensions  
23 Oversight Board solely for the purposes as provided in this  
24 article and article three, chapter thirty-three of this code. All

25 earnings shall accrue to and be retained by the fund unless  
26 otherwise provided in this article.

27 (c) Until the oversight board advises the Insurance  
28 Commissioner and the State Treasurer in writing that the  
29 oversight board is prepared to receive into and distribute from  
30 the West Virginia Municipal Pensions Security Fund  
31 premium tax revenues as provided in section fourteen-d,  
32 article three, chapter thirty-three of this code and section  
33 seven, article twelve-c of said chapter, the commissioner shall  
34 continue to transfer the funds into the Municipal Pensions  
35 and Protection Fund and the State Treasurer shall continue to  
36 disburse funds to the qualifying municipal pension and relief  
37 funds, and shall disburse funds as necessary for the  
38 establishment and early operation of the oversight board.  
39 The Insurance Commissioner, the State Treasurer and  
40 oversight board shall share information freely as required for  
41 efficient transfer of powers and duties related to the premium  
42 tax revenues generated pursuant to chapter thirty-three of this  
43 code to be allocated to the municipal policemen's and  
44 firemen's pension and relief funds. When the oversight board  
45 assumes full responsibility to receive funds into and disburse  
46 funds from the Municipal Pensions Security Fund, the State  
47 Treasurer shall transfer to it all funds remaining in the  
48 Municipal Pensions and Protection Fund and close the  
49 Municipal Pensions and Protection Fund.

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

*Mark R. Spang*  
.....  
Chairman Senate Committee

*John B. McL*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Clark A. Barnes*  
.....  
Clerk of the Senate

*Stephen D. Harris*  
.....  
Clerk of the House of Delegates

*Millie P. Holm*  
.....  
President of the Senate

*Charles P. Miller*  
.....  
Speaker of the House of Delegates

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

*Earl Ray Tomblin*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 23 2015

Time 10:51 AM