Enrolled

Senate Bill 617

BY SENATORS AZINGER, HAMILTON, PLYMALE, AND IHLENFELD

[Passed March 7, 2019; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

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[Passed March 7, 2019; in effect 90 days from passage]
AN ACT to amend and reenact §8-22-19 of the Code of West Virginia, 1931, as amended, relating to method of payment of municipal contributions to municipality’s pension trust funds.

Be it enacted by the Legislature of West Virginia:

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.

§8-22-19. Levy to maintain fund.

(a)(1) In order for a municipal policemen’s or firemen’s pension and relief fund to receive the allocable portion of moneys from the Municipal Pensions Security Fund created in §8-22-18b of this code, the governing body of the municipality shall levy annually and in the manner provided by law for other municipal levies and include within the maximum levy or levies permitted by law and, if necessary, in excess of any charter provision, a tax at such rate as will, after crediting: (A) The amount of the contributions received during the year from the members of the respective paid police department or paid fire department; and (B) the allocable portion of the funds from the Municipal Pensions Security Fund created in §8-22-18b of this code, provide funds equal to the amount necessary to meet the minimum standards for actuarial soundness as provided in §8-22-20 of this code. The amount shall be irrevocably contributed, accumulated, and invested as fund assets as described in §8-22-21 and §8-22-22 of this code. One twelfth of each municipality’s annual contributions shall be deposited with the municipality’s pension trust funds as fund assets on at least a monthly basis and any revenues received from any source by a municipality which are specifically collected for the purpose of allocation for deposit into the policemen’s pension and relief fund or firemen’s pension and relief fund shall be so deposited within five days of receipt by the municipality. A municipality may prepay its monthly required contributions in increments greater than one-twelfth. Heretofore surplus reserves accumulated before the effective date of
this section shall be irrevocably contributed, aggregated, and invested as fund assets described
in §8-22-21 and §8-22-22 of this code. Any actuarial deficiency arising under this section and §8-
22-20 of this code shall not be the obligation of the State of West Virginia.

(2) The levies authorized under the provisions of this section, or any part of them, may by
the governing body be laid in addition to all other municipal levies and, to that extent, beyond the
limit of levy imposed by the charter of the municipality; and the levies shall supersede and if
necessary exclude levies for other purposes, where other purposes have not already attained
priority, and within the limitations on taxes or tax levies imposed by the constitution and laws.

(b) The public corporations are authorized to take by gift, grant, devise, or bequest any
money or real or personal property on such terms as to the investment and expenditures thereof
as may be fixed by the grantor or determined by the trustees.

(c) In addition to all other sums provided for pensions in this section, it is the duty of every
municipality in which any fund or funds have been or shall be established to assess and collect
from each member of the paid police department or paid fire department or both each month, the
sum of seven percent of the actual salary or compensation of such member; and the amount so
collected shall become a regular part of the policemen’s pension and relief fund, if collected from
a policeman, and of the firemen’s pension and relief fund, if collected from a fireman: Provided,
That for members of the funds who are police officers or firefighters newly hired on or after
January 1, 2010, the municipality shall assess and collect nine and one-half percent of the actual
salary or compensation. Only those funds for which the board of trustees has collected and paid
the contributions as herein provided and meeting minimum standards for actuarial soundness
shall be eligible to receive moneys from the additional fire and casualty insurance premium tax
as provided in §33-3-14d of this code: Provided, however, That the board of trustees for each
pension and relief fund may assess and collect from each member of the paid police department
or paid fire department or both each month not more than an additional two and one-half percent
of the actual salary or compensation of each member, but not to exceed nine and one-half percent
total contribution: Provided further, That if any board of trustees decides to assess and collect any additional amount pursuant to this subdivision above the member contribution required by this section, then that board of trustees may not reduce the additional amount until the respective pension and relief fund no longer has any actuarial deficiency: And provided further, That if any board of trustees decides to assess and collect any additional amount, any board of trustees decision and any additional amount is not the liability of the State of West Virginia. Member contributions shall be deposited in the pension and relief fund within five days of being collected.

(d)(1) For the fiscal year beginning on July 1, 2010, and subject to provisions of §8-22-18b and §33-3-14d of this code and for each fiscal year thereafter, the Municipal Pensions Oversight Board shall receive and retain the moneys allocated to the Municipal Pensions Security Fund until such time as the treasurer of the municipality applies for the allocable portion and certifies in writing to Municipal Pensions Oversight Board that:

(A) The municipality has irrevocably contributed the amount required under this section and §8-22-20 of this code to the pension and relief fund for the required period; and

(B) The board of trustees of the pension and relief fund has made a report to the governing body of the municipality and to the oversight board on the condition of its fund with respect to the fiscal year.

(2) When the aforementioned application and certification are made, the allocable portion of moneys from the Municipal Pensions Security Fund shall be paid to the corresponding policemen’s or firemen’s pension and relief fund. Payment to a municipal pension and relief fund shall be made by electronic funds transfer.

(e) The State Auditor and the oversight board have the power, and the duty as each considers necessary, to perform or review audits on the pension and relief funds or to employ an independent consulting actuary or accountant to determine the compliance of the aforementioned certification with the requirements of this section and §8-22-20 of this code. The expense of the audit or determination shall be paid from the Municipal Pensions Security Fund pursuant to
provisions of §8-22-18b of this code. If the allocable portion of the Municipal Pensions Security
Fund is not paid to the pension and relief fund within 18 months, the portion is forfeited by the
pension and relief fund and is allocable to other eligible municipal policemen’s and firemen’s
pension and relief funds in accordance with §33-3-14d 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.

In effect 90 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 22nd Day of March, 2019.

Governor