

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2498

BY DELEGATE PACK, HOLLEN, GRAVES, HOUSEHOLDER,

BYRD, KESSINGER, STEELE AND SUMMERS

[Introduced January 17, 2019; Referred
to the Committee on Pensions and Retirement then
Finance.]

1 A BILL to amend and reenact §8-22-19 of the Code of West Virginia, 1931, as amended, relating
 2 to allowing municipalities to prepay their annual contributions to the policemen's or
 3 firemen's pension and relief fund.

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.

1 (a)(1) In order for a municipal policemen's or firemen's pension and relief fund to receive
 2 the allocable portion of moneys ~~from the Municipal Pensions and Protection Fund established in~~
 3 ~~section fourteen-d, article three, chapter thirty-three of this code and funds from the Municipal~~
 4 Pensions Security Fund created in §8-22-18(b) of this code, the governing body of the municipality
 5 shall levy annually and in the manner provided by law for other municipal levies and include within
 6 the maximum levy or levies permitted by law and, if necessary, in excess of any charter provision,
 7 a tax at such rate as will, after crediting: (A) The amount of the contributions received during the
 8 year from the members of the respective paid police department or paid fire department; and (B)
 9 the allocable portion of the Municipal Pensions and Protection Fund established in §33-3-14(d) of
 10 this code and funds from the Municipal Pensions Security Fund created in, §8-22-18(b) of this
 11 code, provide funds equal to the amount necessary to meet the minimum standards for actuarial
 12 soundness as provided in §18-22-20 of this code. The amount shall be irrevocably contributed,
 13 accumulated and invested as fund assets as described in §8-22-21 and §8-22-22 of this code.
 14 One twelfth of each municipality's annual contributions shall be deposited with the municipality's
 15 pension trust funds as fund assets on at least a monthly basis and any revenues received from
 16 any source by a municipality which are specifically collected for the purpose of allocation for

17 deposit into the policemen's pension and relief fund or firemen's pension and relief fund shall be
18 so deposited within five days of receipt by the municipality. Heretofore surplus reserves
19 accumulated before the effective date of this section shall be irrevocably contributed, aggregated
20 and invested as fund assets described in §8-22-21 and §8-22-22 of this code. Any actuarial
21 deficiency arising under this section and §8-22-22 of this code shall not be the obligation of the
22 State of West Virginia.

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

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

31 (c) ~~Notwithstanding~~ Despite the provisions in §8-22-6 of this code, in addition to all other
32 sums provided for pensions in this section, it is the duty of every municipality in which any fund
33 or funds have been or shall be established to assess and collect from each member of the paid
34 police department or paid fire department or both each month, the sum of seven percent of the
35 actual salary or compensation of such member; and the amount so collected shall become a
36 regular part of the policemen's pension and relief fund, if collected from a policeman, and of the
37 firemen's pension and relief fund, if collected from a fireman: *Provided*, That for members of the
38 funds who are police officers or firefighters newly hired on or after January 1, 2010, the
39 municipality shall assess and collect nine and one-half percent of the actual salary or
40 compensation. Only those funds for which the board of trustees has collected and paid the
41 contributions as herein provided and meeting minimum standards for actuarial soundness shall
42 be eligible to receive moneys from the additional fire and casualty insurance premium tax as

43 provided in §33-3-14(d) of this code: *Provided, however*, That the board of trustees for each
44 pension and relief fund may assess and collect from each member of the paid police department
45 or paid fire department or both each month not more than an additional two and one-half percent
46 of the actual salary or compensation of each member, but not to exceed nine and one-half percent
47 total contribution: *Provided further*, That if any board of trustees decides to assess and collect any
48 additional amount pursuant to this subdivision above the member contribution required by this
49 section, then that board of trustees may not reduce the additional amount until the respective
50 pension and relief fund no longer has any actuarial deficiency: *And provided further*, That if any
51 board of trustees decides to assess and collect any additional amount, any board of trustees
52 decision and any additional amount is not the liability of the State of West Virginia. Member
53 contributions shall be deposited in the pension and relief fund within five days of being collected.

54 (d)(1) For the fiscal year beginning on July 1, 2010, and subject to provisions of §8-22-
55 18(b) and §33-3-14(d) of this code and for each fiscal year thereafter, the Municipal Pensions
56 Oversight Board shall receive and retain the moneys allocated to the Municipal Pensions Security
57 Fund until such time as the Treasurer of the municipality applies for the allocable portion and
58 certifies in writing to Municipal Pensions Oversight Board that:

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

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

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

69 (e) The State Auditor and the oversight board have the power, and the duty as each
70 considers necessary, to perform or review audits on the pension and relief funds or to employ an
71 independent consulting actuary or accountant to determine the compliance of the aforementioned
72 certification with the requirements of this section and ~~section twenty of this article.~~ §8-22-9 of this
73 code. The expense of the audit or determination shall be paid from the portion of the Municipal
74 Pensions and Protection Fund allocable to municipal policemen's and firemen's pension and relief
75 funds or from the Municipal Pensions Security Fund pursuant to provisions of : §8-22-18b(c) of
76 this code. If the allocable portion of the Municipal Pensions and Protection Fund or the Municipal
77 Pensions Security Fund is not paid to the pension and relief fund within 18 months, the portion is
78 forfeited by the pension and relief fund and is allocable to other eligible municipal policemen's and
79 firemen's pension and relief funds in accordance with §33-3-14(d) of this code.

NOTE: The purpose of this bill is to allow municipalities to prepay their annual pension obligations to the policemen's or firemen's pension fund.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.