

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4877

FISCAL
NOTE

By Delegate Crouse

[Introduced January 17, 2024; Referred to the
Committee on Pensions and Retirement then
Finance]

1 A BILL to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §33-3-14d and §33-3-33 of said code, all relating to authorizing an
 3 expenditure of revenue from the Municipal Pension and Protection Fund and Fire
 4 Protection Fund.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL
SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-8b. Authorized expenditures of revenues from the Municipal Pensions and
Protection Fund and the Fire Protection Fund; deductions for unauthorized
expenditures; record retention.**

1 (a) Money received from the state for volunteer and part-volunteer fire companies and
 2 departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, shall be deposited
 3 into a bank account dedicated to state received funds and may not be commingled with moneys
 4 received from any source other than the state. Distributions from the Municipal Pensions and
 5 Protection Fund and the Fire Protection Fund allocated to volunteer and part-volunteer fire
 6 companies and departments may be expended only for the following:

7 (1) Personal protective equipment, including helmet, bunker coats, pants, boots, gloves, or
 8 combination of bunker pants and boots, coats, and gloves;

9 (2) Equipment for compliance with the national fire protection standard or automotive fire
 10 apparatus, NFPA-1901;

11 (3) Compliance with insurance service office recommendations relating to fire
 12 departments;

13 (4) Rescue equipment, communications equipment, and ambulance equipment: *Provided,*

14 That no moneys received from the Municipal Pensions and Protection Fund or the Fire Protection

15 Fund may be used for equipment for personal vehicles owned or operated by volunteer or part-
16 volunteer fire company or department members;

17 (5) The direct costs incurred due to the purchase of land, the construction of new facilities,
18 or the expansion of current facilities, when these costs can be demonstrated by the department to
19 increase the effectiveness and efficiency of the fire protection services; as well as maintenance
20 required to maintain the functionality of physical facilities of the department;

21 (6) Retirement of debts, but only if the debts were incurred exclusively for the purchase of
22 the goods and services allowed under this subsection;

23 (7) Payment of utility bills, including internet and telephone bills which may include cell
24 phones when the cell phone is used for fire department related work only;

25 (8) Payment of the cost of immunizations, including any laboratory work incident to the
26 immunizations, for firefighters against hepatitis-b and other blood-borne pathogens only when: (A)
27 purchased through the state immunization program or lowest-cost provider; and (B) no-cost or
28 low-cost administration from local boards of health or other similar programs are unavailable;

29 (9) Insurance policies, including:

30 (A) Property/casualty insurance premiums for protection and indemnification against loss
31 or damage or liability;

32 (B) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters;

33 (C) Accident and sickness insurance premiums which may be offered to cover individual
34 members of a volunteer or part-volunteer fire company; or

35 (D) Umbrella policies that contain various types of insurance policies to protect against
36 loss and liability, so long as life insurance premiums in the amounts prescribed above and
37 property/casualty insurance are part of any umbrella policy;

38 (10) Operating expenses reasonably required in the normal course of providing effective
39 and efficient fire protection service, which include, but are not limited to, gasoline, bank fees,
40 postage, and accounting costs;

41 (11) Dues paid to national, state, and county associations;

42 (12) Workers' compensation premiums;

43 (13) Educational and training supplies and fire prevention promotional materials, not to
44 exceed \$500 per year; and

45 (14) Food, bottled water, and food-related items, like disposable plates and utensils, to
46 provide necessary meals and water to a fire company when responding to an emergency and is in
47 no way connected to any fundraising events; and

48 (15) Volunteer firefighter recruitment and retention.

49 (b) If a volunteer or part-volunteer fire company or department uses any amount of money
50 received from the Municipal Pensions and Protection Fund or the Fire Protection Fund for an item,
51 service, or purpose not authorized by this section, that amount, when determined by an official
52 audit, review, or investigation, shall be deducted from future distributions to the volunteer fire
53 company or part-volunteer fire department.

54 (c) If a volunteer or part-volunteer fire company or department purchases goods or
55 services authorized by this section, but then returns the goods or cancels the services for a refund,
56 then any money refunded shall be deposited back into the same, dedicated bank account used for
57 the deposit of distributions from the Municipal Pensions and Protection Fund and the Fire
58 Protection Fund.

59 (d) A volunteer or part-volunteer fire company or department shall have a dedicated bank
60 account for all funds received from the Municipal Pensions and Protection Fund, the Fire
61 Protection Fund, and any other state distribution, including state grant money.

62 (1) Any distributions received from the Municipal Pensions and Protection Fund or the Fire
63 Protection Fund shall remain in the bank account dedicated to receiving state funds and be used in
64 accordance with this section.

65 (2) All other moneys, including state grants, must be transferred out of the account used to
66 receive state funds and transferred into another bank account within 60 days of receipt and such

67 transfer must be in the exact amount of the deposit. If any money is received from sources other
68 than the Municipal Pensions and Fire Protection Fund or the Fire Protection Fund and is not
69 transferred to another account within 60 days, the money may only be used in accordance with
70 this section.

71 (e) Each volunteer or part-volunteer fire company and department shall retain, for five
72 calendar years, all invoices, receipts, and payment records for the goods and services paid with
73 money received from the state for volunteer and part-volunteer fire companies and departments,
74 pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code and money received as a grant from
75 the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

76 (f) Volunteer and part-volunteer fire companies and departments may also invest the
77 received moneys, described in subsection (a) of this section, and collect interest thereon:
78 *Provided*, That volunteer and part-volunteer fire companies and departments shall not commingle
79 the received moneys with funds received from any other source, shall not use the invested money
80 as collateral or security for any loan, and shall retain all resulting statements of accounts and
81 earnings for a minimum of five years from the date of the statements.

CHAPTER 33. INSURANCE.

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 for municipal policemen's and
2 firemen's pension and relief funds and the Teachers Retirement System Reserve Fund and for
3 volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed
4 an additional premium tax equal to one percent of taxable premiums for fire insurance and
5 casualty insurance policies. For purposes of this section, casualty insurance does not include
6 insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit

7 transaction or insurance on a debtor to provide indemnity for payments becoming due on a
8 specific loan or other credit transaction while the debtor is disabled as defined in the policy.

9 (2) All moneys collected from this additional tax shall be received by the commissioner and
10 paid by him or her into a special account in the State Treasury, designated the Municipal Pensions
11 and Protection Fund: *Provided*, That on or after January 1, 2010, the commissioner shall pay 10
12 percent of the amount collected to the Teachers Retirement System Reserve Fund created in §18-
13 7A-18 of this code, 25 percent of the amount collected to the Fire Protection Fund created in §33-
14 3-33 of this code for allocation by the Treasurer to volunteer and part-volunteer fire companies and
15 departments and 65 percent of the amount collected to the Municipal Pensions and Protection
16 Fund: *Provided, however*, That upon notification by the Municipal Pensions Oversight Board
17 pursuant to the provisions of §8-22-18b this code, on or after January 1, 2010, or as soon
18 thereafter as the Municipal Pensions Oversight Board is prepared to receive the funds, 65 percent
19 of the amount collected by the commissioner shall be deposited in the Municipal Pensions
20 Security Fund created in §8-22-18b of this code. The net proceeds of this tax after appropriation
21 thereof by the Legislature is distributed in accordance with the provisions of this section, except for
22 distribution from proceeds pursuant to §8-22-18a(d) of this code.

23 (b)(1) Before August 1 of each year, the treasurer of each municipality in which a municipal
24 policemen's or firemen's pension and relief fund is established shall report to the State Treasurer
25 the average monthly number of members who worked at least one hundred hours per month and
26 the average monthly number of retired members of municipal policemen's or firemen's pension
27 and relief fund or the Municipal Police Officers and Firefighters Retirement System during the
28 preceding fiscal year: *Provided*, That beginning in the year 2010 and continuing thereafter, the
29 report shall be made to the oversight board created in §8-22-18a of this code. These reports
30 received by the oversight board shall be provided annually to the State Treasurer by September 1.

31 (2) Before September 1 of each calendar year, the State Treasurer, or the Municipal
32 Pensions Oversight Board, once in operation, shall allocate and authorize for distribution the

33 revenues in the Municipal Pensions and Protection Fund which were collected during the
34 preceding calendar year for the purposes set forth in this section. Before September 1 of each
35 calendar year and after the Municipal Pensions Oversight Board has notified the Treasurer and
36 commissioner pursuant to §8-22-18b of this code, the Municipal Pensions Oversight Board shall
37 allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund which
38 were collected during the preceding calendar year for the purposes set forth in this section. In any
39 year the actuarial report required by §8-22-20 of this code indicates that no actuarial deficiency
40 exists in the municipal policemen's or firemen's pension and relief fund and that no pension
41 funding revenue bonds of the building commission of such municipality remain outstanding, no
42 revenues may be allocated from the Municipal Pensions and Protection Fund or the Municipal
43 Pensions Security Fund to that fund. The revenues from the Municipal Pensions and Protection
44 Fund shall then be allocated to all other pension and relief funds which have an actuarial
45 deficiency. Pension funding revenue bonds include bonds of a municipality's building commission
46 the net proceeds of which were used to fund either or both of a municipality's policemen's or
47 firemen's pension and relief fund or bonds issued to refinance such bonds.

48 (3) The Municipal Pensions Oversight Board shall annually review the investment
49 performance of each municipal policemen's or firemen's pension and relief fund. If the municipal
50 pension and relief fund's board fails for three consecutive years to comply with the investment
51 provisions established §8-22-22a of this code, the oversight board may require the municipal
52 policemen's or firemen's pension and relief fund to invest with the Investment Management Board
53 to continue to receive its allocation of funds from the premium tax. If the municipal pension and
54 relief fund fails to move its investments to the Investment Management Fund within the 18-month
55 drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all
56 other municipal policemen's or firemen's pension and relief funds that have drawn down one
57 hundred percent of their allocations.

58 (4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection

59 Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated
60 and distributed quarterly to the volunteer fire companies and departments. Before each
61 distribution date, the State Fire Marshal shall report to the State Treasurer the names and
62 addresses of all volunteer and part-volunteer fire companies and departments within the state
63 which meet the eligibility requirements established in §8-15-8A of this code.

64 (c)(1) Each municipal pension and relief fund shall have allocated and authorized for
65 distribution a pro rata share of the revenues allocated to municipal policemen's and firemen's
66 pension and relief funds based on the corresponding municipality's average monthly number of
67 police officers and firefighters who worked at least 100 hours per month during the preceding fiscal
68 year. On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax
69 imposed by this section and interest thereon there shall be allocated and authorized for distribution
70 to each municipal pension and relief fund, a pro rata share of the revenues allocated to municipal
71 policemen's and firemen's pension and relief funds based on the corresponding municipality's
72 average number of police officers and firefighters who worked at least 100 hours per month and
73 average monthly number of retired police officers and firefighters. For the purposes of this
74 subsection, the growth in moneys collected from the tax collected pursuant to this section is
75 determined by subtracting the amount of the tax collected during the fiscal year ending June 30,
76 1996, from the tax collected during the fiscal year for which the allocation is being made and
77 interest thereon. All moneys received by municipal pension and relief funds under this section may
78 be expended only for those purposes described in sections 16 through 28a, inclusive, article 22,
79 chapter eight of this code. Notwithstanding the foregoing provision of this subdivision, if a
80 municipality has outstanding pension funding revenue bonds and continues to pay the normal cost
81 of its policemen's and firemen's pension and relief funds, then the allocable share of revenues to
82 be allocated which would otherwise have been allocated to a municipal policemen's or firemen's
83 pension and relief fund shall instead be allocated to the trustee of any outstanding pension funding
84 revenue bonds.

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

87 (3) (2) In addition to the share allocated and distributed in accordance with subdivision (1)
88 of this subsection, each municipal fire department composed of full-time paid members and
89 volunteers and part-volunteer fire companies and departments shall receive a share equal to the
90 share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by
91 an amount equal to the share multiplied by the ratio of the number of full-time paid fire department
92 members who are also members of a municipal firemen's pension and relief fund or the Municipal
93 Police Officers and Firefighters Retirement System to the total number of members of the fire
94 department. If a municipality has outstanding pension funding revenue bonds and continues to
95 pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that
96 would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this
97 subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.

98 (d) The allocation and distribution of revenues provided in this section are subject to the
99 provisions of §8-22-20 of this code and §8-15-8a and §8-15-8b of this code.

100 (e) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and
101 declares that during the period of 1982 through April 27, 2012, allocations from the Municipal
102 Pensions and Protection Fund were miscalculated and errors were made in amounts transferred,
103 resulting in overpayments and underpayments to the relief and pension funds and to the Teachers
104 Retirement System, and that the relief and pension funds and the Teachers Retirement System
105 were not at fault for any of the overpayments and underpayments. The Legislature hereby further
106 finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to
107 recover any of the overpayments would be unjust and create economic hardship for the entities
108 that received overpayments. No entity, including, without limitation, the Municipal Pension
109 Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement
110 System or the state any overpayments received from the Municipal Pensions and Protection Fund

111 and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the
112 Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds
113 through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of
114 \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection
115 Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to
116 this subsection, and to use the amount transferred to remit the amounts due to the pension and
117 relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction
118 of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight
119 Board and any pension or relief fund, may seek to recover any further amounts.

**§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-
volunteer fire departments; Public Employees Insurance Agency and municipal
pension plans; special fund created; allocation of proceeds; effective date.**

1 (a)(1) For the purpose of providing additional revenue for volunteer fire departments, part-
2 volunteer fire departments and certain retired teachers and the teachers retirement reserve fund,
3 there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire
4 insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or
5 by any risk retention group, a policy surcharge equal to one percent of the taxable premium for
6 each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions
7 (2) and (3) of this subsection.

8 (2) After June 30, 2005, through December 31, 2005, for the purpose of providing
9 additional revenue for volunteer fire departments, part-volunteer fire departments and to provide
10 additional revenue to the Public Employees Insurance Agency and municipal pension plans, there
11 is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire
12 insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or
13 by any risk retention group, a policy surcharge equal to one percent of the taxable premium for
14 each such policy.

15 (3) After December 31, 2005, for the purpose of providing additional revenue for volunteer
16 fire departments and part-volunteer fire departments, there is hereby authorized and imposed on
17 the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer,
18 authorized or unauthorized, or by any risk retention group, a policy surcharge equal to fifty-five one
19 hundredths of one percent of the taxable premium for each such policy.

20 (4) For purposes of this section, casualty insurance may not include insurance on the life of
21 a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on
22 a debtor to provide indemnity for payments becoming due on a specific loan or other credit
23 transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be
24 subject to premium taxes, agent commissions or any other assessment against premiums.

25 (b) The policy surcharge shall be collected and remitted to the Commissioner by the
26 insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is
27 issued by a risk retention group, by the risk retention group. The amount required to be collected
28 under this section shall be remitted to the Commissioner on a quarterly basis on or before the
29 twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except
30 for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the
31 succeeding year.

32 (c) Any person failing or refusing to collect and remit to the Commissioner any policy
33 surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing
34 is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the
35 Commissioner. The Commissioner may suspend the insurer, broker or risk retention group until all
36 surcharge payments and penalties are remitted in full to the Commissioner.

37 (d)(1) All money from the policy surcharge shall be collected by the Commissioner who
38 shall disburse the money received from the surcharge into a special account in the state Treasury,
39 designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest
40 thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the

41 months of January, April, July and October to each volunteer fire company or department on an
42 equal share basis by the state Treasurer. After June 30, 2005, the money received from the
43 surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

44 (2)(A) After June 30, 2005, through December 31, 2005, all money from the policy
45 surcharge shall be collected by the Commissioner who shall disburse one half of the money
46 received from the surcharge into the Fire Protection Fund for distribution as provided in
47 subdivision (1) of this subsection.

48 (B) The remaining portion of moneys collected shall be transferred into the fund in the state
49 Treasury of the Public Employees Insurance Agency into which are deposited the proportionate
50 shares made by agencies of this state of the Public Employees Insurance Agency costs of those
51 agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the
52 remain portion shall be transferred to the special account in the state Treasury, known as the
53 Municipal Pensions and Protection Fund

54 (3) (2) After December 31, 2005, all money from the policy surcharge shall be collected by
55 the Commissioner who shall disburse all of the money received from the surcharge into the Fire
56 Protection Fund for distribution as provided in subdivision (4) (2)(A) of this subsection.

57 (A) The Fire Protection Fund will be distributed as follows:

58 (i) All volunteer fire departments will be divided into four tiers to each have 25% of total
59 number of volunteer fire departments in each tier. Tier one will be the highest 25% by call volume.
60 Tier two will be the second highest 25% by call volume. Tier three will be the third highest 25% by
61 call volume. Tier four will be the bottom 25% by call volume.

62 (ii) The net proceeds mentioned in subdivision (d)(1) of this section shall be distributed
63 accordingly: 40% of net proceeds equally divided among tier one, 30% of net proceeds equally
64 divided among tier two, 20% of net proceeds equally divided among tier three, 10% of net
65 proceeds equally divided among tier four.

66 (4) (3) Before each distribution date to volunteer fire companies or departments, the state

67 Fire Marshal shall report to the state Treasurer:

68 (A) The names and addresses of all volunteer and part-volunteer fire companies and
69 departments within the state which meet the eligibility requirements established in §8-15-8a of this
70 code during the preceding quarter;

71 (B) The number of volunteer firefighters and the number of full-time paid members
72 providing services to each volunteer and part-volunteer fire company and department during the
73 preceding quarter;

74 (C) A full accounting of each volunteer and part-volunteer fire company and department
75 eligible to receive a distribution under this section's revenues and expenditures for the last two
76 calendar years; and

77 (D) A list of each volunteer and part-volunteer fire company and department has
78 implemented the State Auditor's West Virginia Checkbook fiscal reporting system on or before
79 January 1, 2026.

80 (e) Notwithstanding any other provision of this subsection, each volunteer and part-
81 volunteer fire company and department shall implement the State Auditor's West Virginia
82 Checkbook fiscal reporting system on or before January 1, 2026, in order to remain eligible to
83 receive any funds pursuant to this section.

84 (f) The allocation, distribution, and use of revenues provided in the Fire Protection Fund
85 are subject to the provisions of §8-15-8a and §8-15-8b of this code.

NOTE: The purpose of this bill is to authorize an expenditure of revenue from the Municipal Pension and Protection Fund and Fire Protection 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.