

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 670

By Senator Nelson

[Introduced February 6, 2024; referred
to the Committee on Pensions; and then to the
Committee on Finance]

1 A BILL to amend and reenact §33-3-14d of the Code of West Virginia, 1931, as amended, relating
 2 to distributions from funds collected from a premium tax on fire insurance and casualty
 3 insurance policies; clarifying requirements of distributions from funds collected from a
 4 premium tax on fire insurance and casualty policies; directing that ten percent of funds
 5 collected from a premium tax on fire insurance and casualty insurance policies currently
 6 paid to the Teachers Retirement System be deposited in the Municipal Pensions Security
 7 Fund to be distributed by the Municipal Pensions Oversight Board in certain circumstance;
 8 and decreasing the time in which a municipal policeman's or fireman's pension and relief
 9 funds may fail to comply with investment provisions before it may be required to invest with
 10 the state Investment Management Board in order to continue to receive funds from a
 11 premium tax on fire insurance and casualty insurance policies.

Be it enacted by the Legislature of West Virginia:

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, to be allocated as follows: *Provided*, That on or after January 1, 2010, the

12 ~~commissioner shall pay 10 percent of the amount collected to the Teachers Retirement System~~
13 ~~Reserve Fund created in §18-7A-18 of this code;~~

14 (A) 25 Twenty-five percent of the amount collected to shall be deposited in the Fire
15 Protection Fund created in §33-3-33 of this code for allocation distribution by the State Treasurer
16 to volunteer and part-volunteer fire companies and departments according to the requirements of
17 §33-3-33 of this code; and

18 ~~65 percent of the amount collected to the Municipal Pensions and Protection Fund:~~
19 ~~*Provided, however,* That upon notification by the Municipal Pensions Oversight Board pursuant to~~
20 ~~the provisions of §8-22-18b this code, on or after January 1, 2010, or as soon thereafter as the~~
21 ~~Municipal Pensions Oversight Board is prepared to receive the funds,~~

22 (B) 65 Seventy-five percent of the amount collected by the commissioner shall be
23 deposited in the Municipal Pensions Security Fund created in §8-22-18b of this code. The net
24 proceeds of this tax after appropriation thereof by the Legislature is to be distributed in accordance
25 with the provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d)
26 of this code: *Provided, however,* that thirteen and one-third percent of this amount collected by the
27 commissioner and deposited in the Municipal Pensions Security Fund is eligible to be distributed
28 only to those municipalities employing the Optional I or Optional II methods of financing as defined
29 in §8-22-20 of this code on or before December 31, 2027.

30 (b) *Municipal Pensions Security Fund allocation and distribution* —

31 (1) Before August 1 of each year, the treasurer of each municipality in which a municipal
32 policemen's or firemen's pension and relief fund is established shall report to the State
33 Treasurer Municipal Pensions Oversight Board the average monthly number of members who
34 worked at least 100 hours per month and the average monthly number of retired members of
35 municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and
36 Firefighters Retirement System during the preceding fiscal year. *Provided,* That beginning in the
37 year 2010 and continuing thereafter, the report shall be made to the oversight board created in §8-

38 ~~22-18a of this code. These reports received by the oversight board shall be provided annually to~~
39 ~~the State Treasurer by September 1.~~

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

57 (3) ~~The Municipal Pensions Oversight Board shall annually review the investment~~
58 ~~performance of each municipal policemen's or firemen's pension and relief fund. If the municipal~~
59 ~~pension and relief fund's board fails for three consecutive years to comply with the investment~~
60 ~~provisions established by §8-22-22a of this code, the oversight board may require the municipal~~
61 ~~policemen's or firemen's pension and relief fund to invest with the Investment Management Board~~
62 ~~to continue to receive its allocation of funds from the premium tax. If the municipal pension and~~
63 ~~relief fund fails to move its investments to the Investment Management Fund within the 18-month~~

64 ~~drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all~~
65 ~~other municipal policemen's or firemen's pension and relief funds that have drawn down one~~
66 ~~hundred percent of their allocations.~~

67 ~~(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection~~
68 ~~Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated~~
69 ~~and distributed quarterly to the volunteer fire companies and departments. Before each~~
70 ~~distribution date, the State Fire Marshal shall report to the State Treasurer the names and~~
71 ~~addresses of all volunteer and part-volunteer fire companies and departments within the state~~
72 ~~which meet the eligibility requirements established in §8-15-8a of this code.~~

73 ~~(e) (1)-(3)~~ Each municipal pension and relief fund shall have allocated and authorized for
74 distribution a pro rata share of the revenues, the amount of which was the tax collected during the
75 fiscal year ending June 30, 1996, allocated to municipal policemen's and firemen's pension and
76 relief funds based on the corresponding municipality's average monthly number of police officers
77 and firefighters who worked at least one hundred hours per month during the preceding fiscal year.
78 On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax imposed by
79 this section and earnings and interest thereon, there shall be allocated and authorized for
80 distribution to each municipal policemen's or municipal firemen's pension and relief fund, a pro
81 rata share of the revenues ~~allocated to municipal policemen's and firemen's pension and relief~~
82 ~~funds~~ based on the corresponding municipality's average number of police officers and firefighters
83 who worked at least 100 hours per month during the preceding fiscal year and the average
84 monthly number of retired police officers and firefighters during the preceding fiscal year. For the
85 purposes of this subsection, the growth in moneys collected and earnings from the tax collected
86 pursuant to this section is determined by subtracting the amount of the tax collected during the
87 fiscal year ending June 30, 1996, which was \$8,709,689.42, from the tax collected during the fiscal
88 year for which the allocation is being made and interest thereon. On or after July 1, 2024, from the
89 75 percent of the amount collected by the commissioner, 65 percent shall be allocated and

90 authorized for distribution as stated above. From the remaining 10 percent of the revenues, a pro
91 rata share based on the corresponding municipality's average number of police officers and
92 firefighters who worked at least 100 hours per month during the preceding fiscal year and the
93 average monthly number of retired police officers and firefighters during the preceding fiscal year
94 shall be allocated and authorized for distribution to those municipal policemen's and firemen's
95 pension and relief funds which have elected to adopt an actuarially sound pension plan funding
96 methodology provided for in §8-22-20(e) or §8-22-20(g), and have not, according to the most
97 recently completed actuarial valuation report required by §8-22-20(a), reached a funding level of at
98 least 100 percent. All moneys received by municipal pension and relief funds under this section
99 may be expended only for those purposes described in §8-22-16 through §8-22-28a of this code.
100 Notwithstanding the foregoing provision of this subdivision, if a municipality has outstanding
101 pension funding revenue bonds and continues to pay the normal cost of its policemen's and
102 firemen's pension and relief funds, then the allocable share of revenues to be allocated which
103 would otherwise have been allocated to a municipal policemen's or firemen's pension and relief
104 fund shall instead be allocated to the trustee of any outstanding pension funding revenue bonds.

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

107 ~~(3) In addition to the share allocated and distributed in accordance with subdivision (1) of~~
108 ~~this subsection, each municipal fire department composed of full-time paid members and~~
109 ~~volunteers and part-volunteer fire companies and departments shall receive a share equal to the~~
110 ~~share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by~~
111 ~~an amount equal to the share multiplied by the ratio of the number of full-time paid fire department~~
112 ~~members who are also members of a municipal firemen's pension and relief fund or the Municipal~~
113 ~~Police Officers and Firefighters Retirement System to the total number of members of the fire~~
114 ~~department. If a municipality has outstanding pension funding revenue bonds and continues to~~
115 ~~pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that~~

116 ~~would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this~~
117 ~~subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.~~

118 (d) (4) The allocation and distribution of revenues provided in this section are subject to the
119 provisions of §8-22-20, §8-15-8a, and §8-15-8b of said chapter this code.

120 (c) The Municipal Pensions Oversight Board shall annually review the investment
121 performance of each municipal policemen's or firemen's pension and relief fund. If a municipal
122 pension and relief fund's board fails for two consecutive fiscal years to comply with the investment
123 provisions established by §8-22-22a of this code, the oversight board may require the municipal
124 policemen's or firemen's pension and relief fund to invest with the Investment Management Board
125 to continue to receive its allocation of funds from the premium tax. If the municipal pension and
126 relief fund fails to move its investments to the Investment Management Board within the 18-month
127 drawdown period provided in §8-22-19(e) of this code, the revenues shall be reallocated to all
128 other municipal policemen's or firemen's pension and relief funds that have drawn down 100
129 percent of their allocations.

130 (e) (d) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds
131 and declares that during the period of 1982 through April 27, 2012, allocations from the Municipal
132 Pensions and Protection Fund were miscalculated and errors were made in amounts transferred,
133 resulting in overpayments and underpayments to the relief and pension funds and to the Teachers
134 Retirement System, and that the relief and pension funds and the Teachers Retirement System
135 were not at fault for any of the overpayments and underpayments. The Legislature hereby further
136 finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to
137 recover any of the overpayments would be unjust and create economic hardship for the entities
138 that received overpayments. No entity, including, without limitation, the Municipal Pension
139 Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement
140 System or the state any overpayments received from the Municipal Pensions and Protection Fund
141 and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the

142 Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds
143 through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of
144 \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection
145 Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to
146 this subsection, and to use the amount transferred to remit the amounts due to the pension and
147 relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction
148 of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight
149 Board and any pension or relief fund, may seek to recover any further amounts.

NOTE: The purpose of this bill is to reallocate ten basis points of the one percent premium tax on fire insurance and casualty policies from the Teachers Retirement System to the Municipal Pensions Security Fund, and to decrease the amount of time in which a municipal policeman's or firefighter's pension and relief fund may be in noncompliance with the Municipal Pensions Oversight Board's investment requirements before it may be forced to invest with the state Investment Management Board.

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