

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 670**

By Senator Nelson

[Originating in the Committee on Pensions; reported  
on February 15, 2024]

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 10 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  
8 circumstances; deleting obsolete language; clarifying distribution and allocation amounts;  
9 and decreasing the time in which a municipal policeman's or fireman's pension and relief  
10 funds may fail to comply with investment provisions before it may be required to invest with  
11 the state Investment Management Board in order to continue to receive funds from a  
12 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 (B) Beginning on January 1, 2025, and continuing until December 31, 2036, the  
19 commissioner shall deposit 10 percent of the amount collected in the Municipal Pensions Security  
20 Fund created in §8-22-18b of this code to be distributed in accordance with the provisions of this  
21 section. *Provided*, this 10 percent is eligible to be distributed only to municipal policemen's or  
22 firemen's pension and relief funds which are employing the Alternative or Conservation methods  
23 of financing as defined in §8-22-20 of this code on October 1, 2024, and which change the method  
24 of financing to either the Optional or the Optional II methods of financing as defined in §8-22-20 of  
25 this code on or before October 1, 2027. The annual distribution of the product of a pro rata share  
26 based on the corresponding municipality's average number of police officers and firefighters who  
27 worked at least 100 hours per month during the preceding fiscal year and the average monthly  
28 number of retired police officers and firefighters during the preceding fiscal year shall be allocated  
29 and authorized for distribution to those municipal policemen's and firemen's pension and relief  
30 funds which, as of October 1, 2024, employ the Alternative or Conservation funding methodology  
31 provided for in §8-22-20 of this code, and which have, by October 1, 2027, elected to change to the  
32 Optional or Optional II funding methodology provided for in §8-22-20 of this code. *Provided*,  
33 *further*, that eligibility for any share of this 10 percent may last no longer than 10 years or until the  
34 plan demonstrates an unfunded liability of less than 40 percent, whichever occurs first. The  
35 revenues from this ten percent that were allocated to a fund no longer eligible, shall be allocated to  
36 all other pension and relief funds which meet the criteria described in this paragraph; and

37           ~~65 percent of the amount collected to the Municipal Pensions and Protection Fund:~~  
38 ~~Provided, however, That upon notification by the Municipal Pensions Oversight Board pursuant to~~  
39 ~~the provisions of §8-22-18b this code, on or after January 1, 2010, or as soon thereafter as the~~  
40 ~~Municipal Pensions Oversight Board is prepared to receive the funds,~~

41           (C) Beginning on January 1, 2025, and continuing until December 31, 2036, the  
42 commissioner shall deposit 65 percent of the amount collected by the commissioner shall be  
43 deposited in the Municipal Pensions Security Fund created in §8-22-18b of this code. The net  
44 proceeds of this tax after appropriation thereof by the Legislature is to be distributed in accordance  
45 with the provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d)  
46 of this code. Beginning on January 1, 2037, the commissioner shall deposit 75 percent of the  
47 amount collected in the Municipal Pensions Security Fund created in §8-22-18b of this code to be  
48 distributed in accordance with the provisions of this section, except for distribution from proceeds  
49 pursuant to §8-22-18a(d) of this code. Provided, however, That, if after October 1, 2027, and  
50 before January 1, 2037, the final pension and relief fund eligible to receive funds in accordance  
51 with the requirements of paragraph (B) of this subdivision surpasses its 10 year eligibility limit or  
52 demonstrates an unfunded liability of less than 40 percent, then the commissioner shall deposit 75  
53 percent of the amount collected in the municipal Pensions Security Fund created in §8-22-18b of  
54 this code to be distributed in accordance with the provisions of this section.

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

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

63 ~~22-18a of this code. These reports received by the oversight board shall be provided annually to~~  
64 ~~the State Treasurer by September 1.~~

65 (2) ~~Before September 1 of each calendar year, the State Treasurer, or the Municipal~~  
66 ~~Pensions Oversight Board once in operation, shall allocate and authorize for distribution the~~  
67 ~~revenues in the Municipal Pensions and Protection Fund which were collected during the~~  
68 ~~preceding calendar year for the purposes set forth in this section. Before September 1 of each~~  
69 ~~calendar year, and after the Municipal Pensions Oversight Board has notified the Treasurer and~~  
70 ~~commissioner pursuant to §8-22-18b of this code, the Municipal Pensions Oversight Board shall~~  
71 ~~allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund which~~  
72 ~~were collected during the preceding calendar year for the purposes set forth in this section. In any~~  
73 ~~year the actuarial report required by §8-22-20 of this code indicates no actuarial deficiency exists~~  
74 ~~in the municipal policemen's or firemen's pension and relief fund and that no pension funding~~  
75 ~~revenue bonds of the building commission of such municipality remain outstanding, no revenues~~  
76 ~~may be allocated from the Municipal Pensions and Protection Fund or the Municipal Pensions~~  
77 ~~Security Fund to that fund. The revenues from the Municipal Pensions and~~  
78 ~~Protection Security Fund shall then be allocated to all other pension and relief funds which have~~  
79 ~~an actuarial deficiency. Pension funding revenue bonds include bonds of a municipality's building~~  
80 ~~commission the net proceeds of which were used to fund either or both of a municipality's~~  
81 ~~policemen's or firemen's pension and relief fund or bonds issued to refinance such bonds.~~

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

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

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

98 ~~(e) (1)-(3)~~ Each municipal pension and relief fund shall have allocated and authorized for  
99 distribution a pro rata share of the revenues, the amount of which was the tax collected during the  
100 fiscal year ending June 30, 1996, allocated to municipal policemen's and firemen's pension and  
101 relief funds based on the corresponding municipality's average monthly number of police officers  
102 and firefighters who worked at least one hundred hours per month during the preceding fiscal year.  
103 On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax imposed by  
104 this section and earnings and interest thereon, there shall be allocated and authorized for  
105 distribution to each municipal policemen's or municipal firemen's pension and relief fund, a pro  
106 rata share of the revenues ~~allocated to municipal policemen's and firemen's pension and relief~~  
107 ~~funds~~ based on the corresponding municipality's average number of police officers and firefighters  
108 who worked at least 100 hours per month during the preceding fiscal year and the average  
109 monthly number of retired police officers and firefighters during the preceding fiscal year. For the  
110 purposes of this subsection, the growth in moneys collected and earnings from the tax collected  
111 pursuant to this section is determined by subtracting the amount of the tax collected during the  
112 fiscal year ending June 30, 1996, which was \$8,709,689.42, from the tax collected during the fiscal  
113 year for which the allocation is being made and interest thereon. All moneys received by municipal  
114 pension and relief funds under this section may be expended only for those purposes described in

115 §8-22-16 through §8-22-28a of this code. Notwithstanding the foregoing provision of this  
116 subdivision, if a municipality has outstanding pension funding revenue bonds and continues to pay  
117 the normal cost of its policemen's and firemen's pension and relief funds, then the allocable share  
118 of revenues to be allocated which would otherwise have been allocated to a municipal policemen's  
119 or firemen's pension and relief fund shall instead be allocated to the trustee of any outstanding  
120 pension funding revenue bonds.

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

123 ~~(3) In addition to the share allocated and distributed in accordance with subdivision (1) of~~  
124 ~~this subsection, each municipal fire department composed of full-time paid members and~~  
125 ~~volunteers and part-volunteer fire companies and departments shall receive a share equal to the~~  
126 ~~share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by~~  
127 ~~an amount equal to the share multiplied by the ratio of the number of full-time paid fire department~~  
128 ~~members who are also members of a municipal firemen's pension and relief fund or the Municipal~~  
129 ~~Police Officers and Firefighters Retirement System to the total number of members of the fire~~  
130 ~~department. If a municipality has outstanding pension funding revenue bonds and continues to~~  
131 ~~pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that~~  
132 ~~would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this~~  
133 ~~subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.—~~

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

136 (c) The Municipal Pensions Oversight Board shall annually review the investment  
137 performance of each municipal policemen's or firemen's pension and relief fund. If a municipal  
138 pension and relief fund's board fails for two consecutive fiscal years to comply with the investment  
139 provisions established by §8-22-22a of this code, the board may require the municipal policemen's  
140 or firemen's pension and relief fund to invest with the Investment Management Board to continue

141 to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails  
142 to move its investments to the Investment Management Board within the 18-month drawdown  
143 period provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal  
144 policemen's or firemen's pension and relief funds that have drawn down 100 percent of their  
145 allocations.

146       ~~(e)~~ (d) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds  
147 and declares that during the period of 1982 through April 27, 2012, allocations from the Municipal  
148 Pensions and Protection Fund were miscalculated and errors were made in amounts transferred,  
149 resulting in overpayments and underpayments to the relief and pension funds and to the Teachers  
150 Retirement System, and that the relief and pension funds and the Teachers Retirement System  
151 were not at fault for any of the overpayments and underpayments. The Legislature hereby further  
152 finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to  
153 recover any of the overpayments would be unjust and create economic hardship for the entities  
154 that received overpayments. No entity, including, without limitation, the Municipal Pension  
155 Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement  
156 System or the state any overpayments received from the Municipal Pensions and Protection Fund  
157 and the overpayments are not subject to recovery, offset, or litigation. Pursuant to the audit by the  
158 Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds  
159 through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of  
160 \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection  
161 Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to  
162 this subsection, and to use the amount transferred to remit the amounts due to the pension and  
163 relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction  
164 of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight  
165 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.