

1 **Senate Bill No. 525**

2 (By Senator Foster)

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4 [Introduced February 6, 2012; referred to the Committee on

5 Banking and Insurance.]

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10 A BILL to amend and reenact §33-3-14d of the Code of West Virginia,

11 1931, as amended, relating to allocation of proceeds of

12 additional fire and casualty insurance premium tax.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §33-3-14d of the Code of West Virginia, 1931, as amended,

15 be amended and reenacted to read as follows:

16 **ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.**

17 **§33-3-14d. Additional fire and casualty insurance premium tax;**

18 **allocation of proceeds; effective date.**

19 (a) (1) For the purpose of providing additional revenue for

20 municipal policemen's and firemen's pension and relief funds and

21 the Teachers Retirement System Reserve Fund and for volunteer and

22 part-volunteer fire companies and departments, there is hereby

23 levied and imposed an additional premium tax equal to one percent

1 of taxable premiums for fire insurance and casualty insurance
2 policies. For purposes of this section, casualty insurance does
3 not include insurance on the life of a debtor pursuant to or in
4 connection with a specific loan or other credit transaction or
5 insurance on a debtor to provide indemnity for payments becoming
6 due on a specific loan or other credit transaction while the debtor
7 is disabled as defined in the policy.

8 (2) All moneys collected from this additional tax shall be
9 received by the commissioner and paid by him or her into a special
10 account in the State Treasury, designated the Municipal Pensions
11 and Protection Fund: *Provided*, That on or after January 1, 2010,
12 the commissioner shall pay ten percent of the amount collected to
13 the Teachers Retirement System Reserve Fund created in section
14 eighteen, article seven-a, chapter eighteen of this code,
15 twenty-five percent of the amount collected to the Fire Protection
16 Fund created in section thirty-three of this article for allocation
17 by the Treasurer to volunteer and part-volunteer fire companies and
18 departments and sixty-five percent of the amount collected to the
19 Municipal Pensions and Protection Fund: *Provided, however*, That
20 upon notification by the Municipal Pensions Oversight Board
21 pursuant to the provisions of section eighteen-b, article
22 twenty-two, chapter eight of this code, on or after January 1,
23 2010, or as soon thereafter as the Municipal Pensions Oversight
24 Board is prepared to receive the funds, sixty-five percent of the

1 amount collected by the commissioner shall be deposited in the
2 Municipal Pensions Security Fund created in section eighteen-b,
3 article twenty-two, chapter eight of this code. The net proceeds
4 of this tax after appropriation thereof by the Legislature is
5 distributed in accordance with the provisions of this section,
6 except for distribution from proceeds pursuant to subsection (d),
7 section eighteen-a, article twenty-two, chapter eight of this code.

8 (b) (1) Before August 1 of each year, the treasurer of each
9 municipality in which a municipal policemen's or firemen's pension
10 and relief fund is established shall report to the State Treasurer
11 the average monthly number of members who worked at least one
12 hundred hours per month and the average monthly number of retired
13 members, including survivors, of municipal policemen's or firemen's
14 pension and relief fund or the Municipal Police Officers and
15 Firefighters Retirement System during the preceding fiscal year:
16 *Provided*, That beginning in the year 2010 and continuing
17 thereafter, the report shall be made to the oversight board created
18 in section eighteen-a, article twenty-two, chapter eight of this
19 code. These reports received by the oversight board shall be
20 provided annually to the State Treasurer by September 1.

21 (2) Before September 1 of each calendar year, the State
22 Treasurer, or the Municipal Pensions Oversight Board, once in
23 operation, shall allocate and authorize for distribution the
24 revenues in the Municipal Pensions and Protection Fund which were

1 collected during the preceding calendar year for the purposes set
2 forth in this section. Before September 1 of each calendar year
3 and after the Municipal Pensions Oversight Board has notified the
4 Treasurer and commissioner pursuant to section eighteen-b, article
5 twenty-two, chapter eight of this code, the Municipal Pensions
6 Oversight Board shall allocate and authorize for distribution the
7 revenues in the Municipal Pensions Security Fund which were
8 collected during the preceding calendar year for the purposes set
9 forth in this section. In any year the actuarial report required
10 by section twenty, article twenty-two, chapter eight of this code
11 indicates no actuarial deficiency in the municipal policemen's or
12 firemen's pension and relief fund, no revenues may be allocated
13 from the Municipal Pensions and Protection Fund or the Municipal
14 Pensions Security Fund to that fund. The revenues from the
15 Municipal Pensions and Protection Fund shall then be allocated to
16 all other pension and relief funds which have an actuarial
17 deficiency.

18 (3) The moneys, and the interest earned thereon, in the
19 Municipal Pensions and Protection Fund allocated to volunteer and
20 part-volunteer fire companies and departments shall be allocated
21 and distributed quarterly to the volunteer fire companies and
22 departments. Before each distribution date, the State Fire Marshal
23 shall report to the State Treasurer the names and addresses of all
24 volunteer and part-volunteer fire companies and departments within

1 the state which meet the eligibility requirements established in
2 section eight-a, article fifteen, chapter eight of this code.

3 (c)(1) Each municipal pension and relief fund shall have
4 allocated and authorized for distribution a pro rata share of the
5 revenues allocated to municipal policemen's and firemen's pension
6 and relief funds based on the corresponding municipality's average
7 monthly number of police officers and firefighters who worked at
8 least one hundred hours per month during the preceding fiscal year.
9 On and after July 1, 1997, from the growth in any moneys collected
10 pursuant to the tax imposed by this section and interest thereon
11 there shall be allocated and authorized for distribution to each
12 municipal pension and relief fund, a pro rata share of the revenues
13 allocated to municipal policemen's and firemen's pension and relief
14 funds based on the ~~corresponding municipality's average number of~~
15 ~~police officers and firefighters who worked at least one hundred~~
16 ~~hours per month and~~ average monthly number of retired police
17 officers and firefighters, including survivors. For the purposes
18 of this subsection, the growth in moneys collected from the tax
19 collected pursuant to this section is determined by subtracting the
20 amount of the tax collected during the fiscal year ending June 30,
21 1996, from the tax collected during the fiscal year for which the
22 allocation is being made and interest thereon. All moneys received
23 by municipal pension and relief funds under this section may be
24 expended only for those purposes described in sections sixteen

1 through twenty-eight, inclusive, article twenty-two, chapter eight
2 of this code.

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

6 (3) In addition to the share allocated and distributed in
7 accordance with subdivision (1) of this subsection, each municipal
8 fire department composed of full-time paid members and volunteers
9 and part-volunteer fire companies and departments shall receive a
10 share equal to the share distributed to volunteer fire companies
11 under subdivision (2) of this subsection reduced by an amount equal
12 to the share multiplied by the ratio of the number of full-time
13 paid fire department members who are also members of a municipal
14 firemen's pension and relief fund or the Municipal Police Officers
15 and Firefighters Retirement System to the total number of members
16 of the fire department.

17 (d) The allocation and distribution of revenues provided for
18 in this section are subject to the provisions of section twenty,
19 article twenty-two, and sections eight-a and eight-b, article
20 fifteen, chapter eight of this code.

NOTE: The purpose of this bill is to allocate certain premium
tax proceeds for municipal policemen's and firemen's pension and
relief funds based on the number of retired members and survivors.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would

be added.