

1 be amended and reenacted; and that §36-8-13 of said code be amended
2 and reenacted, all to read as follows:

3 **CHAPTER 33. INSURANCE**

4 **ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURANCE.**

5 **§33-3-14d. Additional fire and casualty insurance premium tax;
6 allocation of proceeds; effective date.**

7 (a) (1) For the purpose of providing additional revenue for
8 municipal policemen's and firemen's pension and relief funds and
9 the Teachers Retirement System Reserve Fund and for volunteer and
10 part-volunteer fire companies and departments, there is hereby
11 levied and imposed an additional premium tax equal to one percent
12 of taxable premiums for fire insurance and casualty insurance
13 policies. For purposes of this section, casualty insurance does not
14 include insurance on the life of a debtor pursuant to or in
15 connection with a specific loan or other credit transaction or
16 insurance on a debtor to provide indemnity for payments becoming
17 due on a specific loan or other credit transaction while the debtor
18 is disabled as defined in the policy.

19 (2) All moneys collected from this additional tax shall be
20 received by the commissioner and paid by him or her into a special
21 account in the State Treasury, designated the Municipal Pensions
22 and Protection Fund: *Provided*, That on or after January 1, 2010,
23 the commissioner shall pay ten percent of the amount collected to

1 the Teachers Retirement System Reserve Fund created in section
2 eighteen, article seven-a, chapter eighteen of this code, twenty-
3 five percent of the amount collected to the Fire Protection Fund
4 created in section thirty-three of this article for allocation by
5 the Treasurer to volunteer and part-volunteer fire companies and
6 departments and sixty-five percent of the amount collected to the
7 Municipal Pensions and Protection Fund: *Provided, however,* That
8 upon notification by the Municipal Pensions Oversight Board
9 pursuant to the provisions of section eighteen-b, article twenty-
10 two, chapter eight of this code, on or after January 1, 2010, or as
11 soon thereafter as the Municipal Pensions Oversight Board is
12 prepared to receive the funds, sixty-five percent of the amount
13 collected by the commissioner shall be deposited in the Municipal
14 Pensions Security Fund created in section eighteen-b, article
15 twenty-two, chapter eight of this code. The net proceeds of this
16 tax after appropriation thereof by the Legislature is distributed
17 in accordance with the provisions of this section, except for
18 distribution from proceeds pursuant to subsection (d), section
19 eighteen-a, article twenty-two, chapter eight of this code.

20 (b) (1) Before August 1 of each year, the Treasurer of each
21 municipality in which a municipal policemen's or firemen's pension
22 and relief fund is established shall report to the State Treasurer
23 the average monthly number of members who worked at least one
24 hundred hours per month and the average monthly number of retired

1 members of municipal policemen's or firemen's pension and relief
2 fund or the Municipal Police Officers and Firefighters Retirement
3 System during the preceding fiscal year: *Provided*, That beginning
4 in the year 2010 and continuing thereafter, the report shall be
5 made to the oversight board created in section eighteen-a, article
6 twenty-two, chapter eight of this code. These reports received by
7 the oversight board shall be provided annually to the State
8 Treasurer by September 1.

9 (2) Before September 1 of each calendar year, the State
10 Treasurer, or the Municipal Pensions Oversight Board, once in
11 operation, shall allocate and authorize for distribution the
12 revenues in the Municipal Pensions and Protection Fund which were
13 collected during the preceding calendar year for the purposes set
14 forth in this section. Before September 1 of each calendar year and
15 after the Municipal Pensions Oversight Board has notified the
16 Treasurer and commissioner pursuant to section eighteen-b, article
17 twenty-two, chapter eight of this code, the Municipal Pensions
18 Oversight Board shall allocate and authorize for distribution the
19 revenues in the Municipal Pensions Security Fund which were
20 collected during the preceding calendar year for the purposes set
21 forth in this section. In any year the actuarial report required by
22 section twenty, article twenty-two, chapter eight of this code
23 indicates no actuarial deficiency in the Municipal Policemen's or
24 Firemen's Pension and Relief Fund, no revenues may be allocated

1 from the Municipal Pensions and Protection Fund or the Municipal
2 Pensions Security Fund to that fund. The revenues from the
3 Municipal Pensions and Protection Fund shall then be allocated to
4 all other pension and relief funds which have an actuarial
5 deficiency.

6 (3) The moneys, and the interest earned thereon, in the
7 Municipal Pensions and Protection Fund allocated to volunteer and
8 part-volunteer fire companies and departments shall be allocated
9 and distributed quarterly to the volunteer fire companies and
10 departments. Before each distribution date, the State Fire Marshal
11 shall report to the State Treasurer the names and addresses of all
12 volunteer and part-volunteer fire companies and departments within
13 the state which meet the eligibility requirements established in
14 section eight-a, article fifteen, chapter eight of this code.

15 (c) (1) Each municipal pension and relief fund shall have
16 allocated and authorized for distribution a pro rata share of the
17 revenues allocated to municipal policemen's and firemen's pension
18 and relief Funds based on the corresponding municipality's average
19 monthly number of police officers and firefighters who worked at
20 least one hundred hours per month during the preceding fiscal year.
21 On and after July 1, 1997, from the growth in any moneys collected
22 pursuant to the tax imposed by this section and interest thereon
23 there shall be allocated and authorized for distribution to each
24 municipal pension and relief fund, a pro rata share of the revenues

1 allocated to municipal policemen's and firemen's pension and relief
2 funds based on the corresponding municipality's average number of
3 police officers and firefighters who worked at least one hundred
4 hours per month and average monthly number of retired police
5 officers and firefighters. For the purposes of this subsection, the
6 growth in moneys collected from the tax collected pursuant to this
7 section is determined by subtracting the amount of the tax
8 collected during the fiscal year ending June 30, 1996, from the tax
9 collected during the fiscal year for which the allocation is being
10 made and interest thereon. All moneys received by municipal pension
11 and relief funds under this section may be expended only for those
12 purposes described in sections sixteen through twenty-eight,
13 inclusive, article twenty-two, chapter eight of this code.

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

17 (3) In addition to the share allocated and distributed in
18 accordance with subdivision (1) of this subsection, each municipal
19 fire department composed of full-time paid members and volunteers
20 and part-volunteer fire companies and departments shall receive a
21 share equal to the share distributed to volunteer fire companies
22 under subdivision (2) of this subsection reduced by an amount equal
23 to the share multiplied by the ratio of the number of full-time
24 paid fire department members who are also members of a municipal

1 firemen's pension and relief fund or the Municipal Police Officers
2 and Firefighters Retirement System to the total number of members
3 of the fire department.

4 (d) The allocation and distribution of revenues provided ~~for~~
5 in this section are subject to the provisions of section twenty,
6 article twenty-two, and sections eight-a and eight-b, article
7 fifteen, chapter eight of this code.

8 (e) Based on the findings of an audit by the Treasurer, the
9 Legislature hereby finds and declares that during the period from
10 1982 through April 27, 2012, allocations from the Municipal
11 Pensions and Protection Fund were miscalculated and errors were
12 made in amounts transferred, resulting in overpayments and
13 underpayments to the relief and pension funds and to the Teachers
14 Retirement System, and that the relief and pension funds and the
15 Teachers Retirement System were not at fault for any of the
16 overpayments and underpayments. The Legislature hereby further
17 finds and declares that any attempt by the Municipal Pension
18 Oversight Board or other entity to recover any of the overpayments
19 would be unjust and create economic hardship for the entities that
20 received overpayments. No entity, including, without limitation,
21 the Municipal Pension Oversight Board, may seek to recover from a
22 relief or pension fund, the Teachers Retirement System or the state
23 any overpayments received from the Municipal Pensions and
24 Protection Fund and the overpayments are not subject to recovery,

1 offset or litigation. Pursuant to the audit by the Treasurer, the
2 amount of \$3,631,846.55 is determined owed to specific relief and
3 pension funds. The Treasurer is hereby authorized to transfer the
4 amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to
5 the Municipal Pensions and Protection Fund, which is hereby
6 reopened for the sole purpose of the transfer and remittances
7 pursuant to this subsection (e), and to use the amount transferred
8 to remit the amounts due to the pension and relief funds. The
9 payment of the \$3,631,846.55 to the pension and relief funds is
10 complete satisfaction of any amounts due, and no entity, including,
11 without limitation, the Municipal Pension Oversight Board and any
12 pension or relief fund, may seek to recover any further amounts.

13 **CHAPTER 36. ESTATES AND PROPERTY.**

14 **ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.**

15 **§36-8-13. Deposit of funds.**

16 (a) The administrator shall record the name and last known
17 address of each person appearing from the holders reports to be
18 entitled to the property and the name and last known address of
19 each insured person or annuitant and beneficiary and with respect
20 to each policy or annuity listed in the report of an insurance
21 company, its number, the name of the company and the amount due.

22 (b) The Unclaimed Property Fund is continued. The
23 administrator shall deposit all funds received pursuant to this
24 article in the Unclaimed Property Fund, including the proceeds from

1 the sale of abandoned property under section twelve of this
2 article. In addition to paying claims of unclaimed property duly
3 allowed, the administrator may deduct the following expenses from
4 the Unclaimed Property Fund:

5 (1) Expenses of the sale of abandoned property;

6 (2) Expenses incurred in returning the property to owners,
7 including without limitation the costs of mailing and publication
8 to locate owners;

9 (3) Reasonable service charge; and

10 (4) Expenses incurred in examining records of holders of
11 property and in collecting the property from those holders;

12 (c) The Unclaimed Property Trust Fund is continued within the
13 State Treasury. The administrator may invest the Unclaimed Property
14 Trust Fund with the West Virginia Board of Treasury Investments and
15 all earnings shall accrue to the fund and are available for
16 expenditure in accordance with this article. After deducting the
17 expenses specified in subsection (b) of this section and
18 maintaining a sum of money from which to pay claims duly allowed,
19 the administrator shall transfer the remaining moneys in the
20 Unclaimed Property Fund to the Unclaimed Property Trust Fund.

21 (d) (1) On July 1, 2009, the unclaimed property administrator
22 shall transfer the amount of \$8 million from the Unclaimed Property
23 Trust Fund to the Prepaid Tuition Trust Escrow Fund.

24 (2) On or before December 15 of each year, notwithstanding any

1 provision of this code to the contrary, the administrator shall
2 transfer the sum of \$1 million from the Unclaimed Property Trust
3 Fund to the Prepaid Tuition Trust Escrow Fund, until the actuary
4 certifies there are sufficient funds to pay out all contracts.

5 (e) On or before June 1, 2007, the unclaimed property
6 administrator shall transfer the amount of \$2 million from the
7 Unclaimed Property Trust Fund to the Deferred Compensation Matching
8 Fund for operation of the deferred compensation matching program
9 for state employees. On or before June 1, 2008, the unclaimed
10 property administrator shall transfer the amount of \$1 million from
11 the Unclaimed Property Trust Fund to the Deferred Compensation
12 Matching Fund for operation of the matching program.

13 (f) On or before June 1, 2013, the unclaimed property
14 administrator shall transfer the amount of \$3,631,846.55 from the
15 Unclaimed Property Trust Fund to the Municipal Pensions and
16 Protection Fund for the purpose of satisfying any amounts due as of
17 April 27, 2012 to policemen's and firemen's pension and relief
18 funds in accordance with §33-3-14d of this code.

19 ~~(f)~~ (g) After transferring any money required by subsections
20 ~~(d and (e))~~ through (f) of this section, the administrator shall
21 transfer moneys remaining in the Unclaimed Property Trust Fund to
22 the General Revenue Fund.

NOTE: The purpose of this bill is to provide for the transfer of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund for the purpose of satisfying any amounts due as of April 27, 2012 to policemen's and firemen's pension and relief funds. The bill also provides that the Municipal Pension Oversight Board or other entity may not seek to recover from a relief or pension fund, the Teachers Retirement System or the state any overpayments received from the Municipal Pensions and Protection Fund, and that the overpayments are not subject to recovery, offset or litigation.

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