

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Senate Bill 617

BY SENATORS AZINGER, HAMILTON, PLYMALE, AND

IHLENFELD

[Passed March 7, 2019; in effect 90 days from passage]

1 AN ACT to amend and reenact §8-22-19 of the Code of West Virginia, 1931, as amended, relating
2 to method of payment of municipal contributions to municipality's pension trust funds.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND
RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS
FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM, OR
COMBINED WATERWORKS AND SEWERAGE SYSTEM.**

§8-22-19. Levy to maintain fund.

1 (a)(1) In order for a municipal policemen's or firemen's pension and relief fund to receive
2 the allocable portion of moneys from the Municipal Pensions Security Fund created in §8-22-18b
3 of this code, the governing body of the municipality shall levy annually and in the manner provided
4 by law for other municipal levies and include within the maximum levy or levies permitted by law
5 and, if necessary, in excess of any charter provision, a tax at such rate as will, after crediting: (A)
6 The amount of the contributions received during the year from the members of the respective paid
7 police department or paid fire department; and (B) the allocable portion of the funds from the
8 Municipal Pensions Security Fund created in §8-22-18b of this code, provide funds equal to the
9 amount necessary to meet the minimum standards for actuarial soundness as provided in §8-22-
10 20 of this code. The amount shall be irrevocably contributed, accumulated, and invested as fund
11 assets as described in §8-22-21 and §8-22-22 of this code. One twelfth of each municipality's
12 annual contributions shall be deposited with the municipality's pension trust funds as fund assets
13 on at least a monthly basis and any revenues received from any source by a municipality which
14 are specifically collected for the purpose of allocation for deposit into the policemen's pension and
15 relief fund or firemen's pension and relief fund shall be so deposited within five days of receipt by
16 the municipality. A municipality may prepay its monthly required contributions in increments
17 greater than one-twelfth. Heretofore surplus reserves accumulated before the effective date of

18 this section shall be irrevocably contributed, aggregated, and invested as fund assets described
19 in §8-22-21 and §8-22-22 of this code. Any actuarial deficiency arising under this section and §8-
20 22-20 of this code shall not be the obligation of the State of West Virginia.

21 (2) The levies authorized under the provisions of this section, or any part of them, may by
22 the governing body be laid in addition to all other municipal levies and, to that extent, beyond the
23 limit of levy imposed by the charter of the municipality; and the levies shall supersede and if
24 necessary exclude levies for other purposes, where other purposes have not already attained
25 priority, and within the limitations on taxes or tax levies imposed by the constitution and laws.

26 (b) The public corporations are authorized to take by gift, grant, devise, or bequest any
27 money or real or personal property on such terms as to the investment and expenditures thereof
28 as may be fixed by the grantor or determined by the trustees.

29 (c) In addition to all other sums provided for pensions in this section, it is the duty of every
30 municipality in which any fund or funds have been or shall be established to assess and collect
31 from each member of the paid police department or paid fire department or both each month, the
32 sum of seven percent of the actual salary or compensation of such member; and the amount so
33 collected shall become a regular part of the policemen's pension and relief fund, if collected from
34 a policeman, and of the firemen's pension and relief fund, if collected from a fireman: *Provided,*
35 That for members of the funds who are police officers or firefighters newly hired on or after
36 January 1, 2010, the municipality shall assess and collect nine and one-half percent of the actual
37 salary or compensation. Only those funds for which the board of trustees has collected and paid
38 the contributions as herein provided and meeting minimum standards for actuarial soundness
39 shall be eligible to receive moneys from the additional fire and casualty insurance premium tax
40 as provided in §33-3-14d of this code: *Provided, however,* That the board of trustees for each
41 pension and relief fund may assess and collect from each member of the paid police department
42 or paid fire department or both each month not more than an additional two and one-half percent
43 of the actual salary or compensation of each member, but not to exceed nine and one-half percent

44 total contribution: *Provided further*, That if any board of trustees decides to assess and collect any
45 additional amount pursuant to this subdivision above the member contribution required by this
46 section, then that board of trustees may not reduce the additional amount until the respective
47 pension and relief fund no longer has any actuarial deficiency: *And provided further*, That if any
48 board of trustees decides to assess and collect any additional amount, any board of trustees
49 decision and any additional amount is not the liability of the State of West Virginia. Member
50 contributions shall be deposited in the pension and relief fund within five days of being collected.

51 (d)(1) For the fiscal year beginning on July 1, 2010, and subject to provisions of §8-22-
52 18b and §33-3-14d of this code and for each fiscal year thereafter, the Municipal Pensions
53 Oversight Board shall receive and retain the moneys allocated to the Municipal Pensions Security
54 Fund until such time as the treasurer of the municipality applies for the allocable portion and
55 certifies in writing to Municipal Pensions Oversight Board that:

56 (A) The municipality has irrevocably contributed the amount required under this section
57 and §8-22-20 of this code to the pension and relief fund for the required period; and

58 (B) The board of trustees of the pension and relief fund has made a report to the governing
59 body of the municipality and to the oversight board on the condition of its fund with respect to the
60 fiscal year.

61 (2) When the aforementioned application and certification are made, the allocable portion
62 of moneys from the Municipal Pensions Security Fund shall be paid to the corresponding
63 policemen's or firemen's pension and relief fund. Payment to a municipal pension and relief fund
64 shall be made by electronic funds transfer.

65 (e) The State Auditor and the oversight board have the power, and the duty as each
66 considers necessary, to perform or review audits on the pension and relief funds or to employ an
67 independent consulting actuary or accountant to determine the compliance of the aforementioned
68 certification with the requirements of this section and §8-22-20 of this code. The expense of the
69 audit or determination shall be paid from the Municipal Pensions Security Fund pursuant to

70 provisions of §8-22-18b of this code. If the allocable portion of the Municipal Pensions Security
71 Fund is not paid to the pension and relief fund within 18 months, the portion is forfeited by the
72 pension and relief fund and is allocable to other eligible municipal policemen's and firemen's
73 pension and relief funds in accordance with §33-3-14d of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2019.

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Governor