

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Originating**

## **Senate Bill 617**

BY SENATORS AZINGER, HAMILTON, PLYMALE, AND

IHLENFELD

[Originating in the Committee on Pensions; Reported  
on February 14, 2019]



1 A BILL 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 the Municipal Pensions Security Fund.

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

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

23 ~~twenty-two of this article~~ §8-22-21 and §8-22-22 of this code. Any actuarial deficiency arising  
24 under this section and ~~section twenty of this article~~ §8-22-20 of this code shall not be the obligation  
25 of the State of West Virginia.

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

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

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

49 and one-half percent of the actual salary or compensation of each member, but not to exceed  
50 nine and one-half percent total contribution: *Provided further*, That if any board of trustees decides  
51 to assess and collect any additional amount pursuant to this subdivision above the member  
52 contribution required by this section, then that board of trustees may not reduce the additional  
53 amount until the respective pension and relief fund no longer has any actuarial deficiency: *And*  
54 *provided further*, That if any board of trustees decides to assess and collect any additional  
55 amount, any board of trustees decision and any additional amount is not the liability of the State  
56 of West Virginia. Member contributions shall be deposited in the pension and relief fund within  
57 five days of being collected.

58 (d)(1) For the fiscal year beginning on July 1, 2010, and subject to provisions of ~~subsection~~  
59 ~~(c), section eighteen-b of this article and section fourteen-d, article three, chapter thirty-three §8-~~  
60 22-18(b) and §33-3-14(b) of this code and for each fiscal year thereafter, the Municipal Pensions  
61 Oversight Board shall receive and retain the moneys allocated to the Municipal Pensions Security  
62 Fund until such time as the treasurer of the municipality applies for the allocable portion and  
63 certifies in writing to Municipal Pensions Oversight Board that:

64 (A) The municipality has irrevocably contributed the amount required under this section  
65 and ~~section twenty of this article §8-22-20~~ of this code to the pension and relief fund for the  
66 required period; and

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

70 (2) When the aforementioned application and certification are made, the allocable portion  
71 of moneys from ~~the Municipal Pensions and Protection Fund, or the Municipal Pensions Security~~  
72 ~~Fund, once established~~, shall be paid to the corresponding policemen's or firemen's pension and  
73 relief fund. Payment to a municipal pension and relief fund shall be made by electronic funds  
74 transfer.

75 (e) The State Auditor and the oversight board have the power, and the duty as each  
76 considers necessary, to perform or review audits on the pension and relief funds or to employ an  
77 independent consulting actuary or accountant to determine the compliance of the aforementioned  
78 certification with the requirements of this section and ~~section twenty of this article §8-22-20~~ of this  
79 code. The expense of the audit or determination shall be paid ~~from the portion of the Municipal~~  
80 ~~Pensions and Protection Fund allocable to municipal policemen's and firemen's pension and relief~~  
81 ~~funds~~ or from the Municipal Pensions Security Fund pursuant to provisions of ~~subsection (c),~~  
82 ~~section eighteen-b of this article §8-22-18b(c)~~ of this code. If the allocable portion of the Municipal  
83 Pensions and Protection Fund or the Municipal Pensions Security Fund is not paid to the pension  
84 and relief fund within 18 months, the portion is forfeited by the pension and relief fund and is  
85 allocable to other eligible municipal policemen's and firemen's pension and relief funds in  
86 accordance with ~~section fourteen-d, article three, chapter thirty-three §33-3-14(d)~~ of this code.

NOTE: The purpose of this bill is to allow a municipality to prepay its required contributions to the municipal police and municipal fire pensions funds.

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