

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENROLLED**

## **House Bill 2829**

BY DELEGATES STORCH, GEARHEART, PETHTEL, EVANS,

ANDERSON AND J. PACK

(BY REQUEST OF THE MUNICIPAL PENSIONS OVERSIGHT BOARD)

[Passed April 6, 2021; in effect ninety days from passage.]

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1 AN ACT to amend and reenact §8-22-20 of the Code of West Virginia, 1931, as amended, relating  
2 to the amortization of annual impacts on funding deficiencies due to new gains or losses  
3 on assets and liabilities and changes in actuarial assumptions.

*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.**

**§8-22-20. Actuary; actuarial valuation report; minimum standards for annual municipality  
contributions to the fund; definitions; actuarial review and audit.**

1 (a) The West Virginia Municipal Pensions Oversight Board shall contract with or employ a  
2 qualified actuary to annually prepare an actuarial valuation report on each pension and relief fund.  
3 The selection of contract vendors to provide actuarial services, including the reviewing actuary as  
4 provided in subsection (c) of this section, shall be by competitive bid process but is specifically  
5 exempt from the purchasing provisions of article three, chapter five-a of this code. The expense  
6 of the actuarial report shall be paid from moneys in the Municipal Pensions Security Fund. Uses  
7 of the actuarial valuations from the qualified actuary shall include, but not be limited to,  
8 determining a municipal policemen’s or firemen’s pension and relief fund’s eligibility to receive  
9 state money and to provide supplemental benefits.

10 (b) The actuarial valuation report provided pursuant to subsection (a) of this section shall  
11 consist of, but is not limited to, the following disclosures: (1) The financial objective of the fund  
12 and how the objective is to be attained; (2) the progress being made toward realization of the  
13 financial objective; (3) recent changes in the nature of the fund, benefits provided or actuarial  
14 assumptions or methods; (4) the frequency of actuarial valuation reports and the date of the most  
15 recent actuarial valuation report; (5) the method used to value fund assets; (6) the extent to which

16 the qualified actuary relies on the data provided and whether the data was certified by the fund's  
17 auditor or examined by the qualified actuary for reasonableness; (7) a description and explanation  
18 of the actuarial assumptions and methods; (8) an evaluation of each plan using the alternative  
19 funding method, to assess advantages of changing to other funding methods as provided in this  
20 article; and (9) any other information required in §8-22-20a of this code or that the qualified actuary  
21 feels is necessary or would be useful in fully and fairly disclosing the actuarial condition of the  
22 fund.

23 (c)(1) Except as provided in subsections (e) and (f) of this section, beginning June 30,  
24 1991, and thereafter, the financial objective of each municipality shall not be less than to  
25 contribute to the fund annually an amount which, together with the contributions from the  
26 members and the allocable portion of the Municipal Pensions and Protection Fund for municipal  
27 pension and relief funds established under §33-3-14d of this code or a municipality's allocation  
28 from the Municipal Pensions Security Fund created in §8-22-18b of this code and other income  
29 sources as authorized by law will be sufficient to meet the normal cost of the fund and amortize  
30 any actuarial deficiency over a period of not more than forty years beginning from July 1, 1991:  
31 *Provided*, That in the fiscal year ending June 30, 1991, the municipality may elect to make its  
32 annual contribution to the fund using an alternative contribution in an amount not less than: (i)  
33 One hundred seven percent of the amount contributed for the fiscal year ending June 30, 1990;  
34 or (ii) an amount equal to the average of the contribution payments made in the five highest fiscal  
35 years beginning with the fiscal year ending 1984, whichever is greater: *Provided, however*, That  
36 contribution payments in subsequent fiscal years under this alternative contribution method may  
37 not be less than 107 percent of the amount contributed in the prior fiscal year: *Provided further*,  
38 That in order to avoid penalizing municipalities and to provide flexibility when making  
39 contributions, municipalities using the alternative contribution method may exclude a one-time  
40 additional contribution made in any one year in excess of the minimum required by this section:  
41 *And provided further*, That the governing body of any municipality may elect to provide an

42 employer continuing contribution of one percent more than the municipality's required minimum  
43 under the alternative contribution plan authorized in this subsection: *And provided further*, That if  
44 any municipality decides to contribute an additional one percent, then that municipality may not  
45 reduce the additional contribution until the respective pension and relief fund no longer has any  
46 actuarial deficiency: *And provided further*, That any decision and any contribution payment by the  
47 municipality is not the liability of the State of West Virginia: *And provided further*, That if any  
48 municipality or any pension fund board of trustees makes a voluntary election and thereafter fails  
49 to contribute the voluntarily increase as provided in this section and in §8-22-19(c) of this code,  
50 then the board of trustees is not eligible to receive funds allocated under §33-3-14d of this code:  
51 *And provided further*, That prior to using this alternative contribution method the actuary of the  
52 fund shall certify in writing that the fund is projected to be solvent under the alternative contribution  
53 method for the next consecutive 15 year period. For purposes of determining this minimum  
54 financial objective: (i) The value of the fund's assets shall be determined on the basis of any  
55 reasonable actuarial method of valuation which takes into account fair market value; and (ii) all  
56 costs, deficiencies, rate of interest and other factors under the fund shall be determined on the  
57 basis of actuarial assumptions and methods which, in aggregate, are reasonable (taking into  
58 account the experience of the fund and reasonable expectations) and which, in combination, offer  
59 the qualified actuary's best estimate of anticipated experience under the fund: *And provided*  
60 *further*, That any municipality which elected the alternative funding method under this section and  
61 which has an unfunded actuarial liability of not more than 25 percent of fund assets, may,  
62 beginning September 1, 2003, elect to revert to the standard funding method, which is to  
63 contribute to the fund annually an amount which is not less than an amount which, together with  
64 the contributions from the members and the allocable portion of the Municipal Pensions and  
65 Protection Fund for municipal pension and relief funds established under §33-3-14d of this code  
66 and other income sources as authorized by law, will be sufficient to meet the normal cost of the

67 fund and amortize any actuarial deficiency over a period of not more than 40 years, beginning  
68 from July 1, 1991.

69 (2) No municipality may anticipate or use in any manner any state funds accruing to the  
70 police or fireman's pension fund to offset the minimum required funding amount for any fiscal  
71 year.

72 (3) Notwithstanding any other provision of this section or article to the contrary, each  
73 municipality shall contribute annually to its policemen's pension and relief fund and its firemen's  
74 pension and relief fund an amount which may not be less than the normal cost, as determined by  
75 the annual actuarial valuation report required by this section: *Provided*, That in any fiscal year in  
76 which the actuarial valuation report determines that a municipality's policemen's pension and  
77 relief fund or firemen's pension and relief fund is funded at 125 percent or higher and the Municipal  
78 Pensions Oversight Board's actuary provides an actuarial recommendation that the normal cost  
79 does not need to be paid by the employer for that fiscal year, that municipality may elect to make  
80 no contribution for that fiscal year. A municipality's election not to contribute the normal cost in  
81 any year does not affect the payments required by §8-22-19 of this code by members to a pension  
82 and relief fund and these payments are to continue as required by that section.

83 (4) The actuarial process, which includes the selection of methods and assumptions, shall  
84 be reviewed by the qualified actuary no less than once every five years. Furthermore, the qualified  
85 actuary shall provide a report to the oversight board with recommendations on any changes to  
86 the actuarial process.

87 (5) The oversight board shall hire an independent reviewing actuary to perform an  
88 actuarial audit of the work performed by the qualified actuary no less than once every seven years.

89 (d) For purposes of this section, the term "qualified actuary" means only an actuary who  
90 is a member of the Society of Actuaries or the American Academy of Actuaries. The qualified  
91 actuary shall be designated a fiduciary and shall discharge his or her duties with respect to a fund  
92 solely in the interest of the members and members' beneficiaries of that fund. In order for the

93 standards of this section to be met, the qualified actuary shall certify that the actuarial valuation  
94 report is complete and accurate and that in his or her opinion the technique and assumptions  
95 used are reasonable and meet the requirements of this section.

96 (e)(1) Beginning January 1, 2010, municipalities may choose the optional method of  
97 financing municipal policemen's or firemen's pension and relief funds as outlined in this  
98 subsection in lieu of the standard or alternative methods as provided in subdivision (1), subsection  
99 (c) of this section.

100 (2) For those municipalities choosing the optional method of finance, the minimum  
101 standard for annual municipality contributions to each policemen's or firemen's pension and relief  
102 fund shall be an amount which, together with the contributions from the members and allocable  
103 portion of the Municipal Pensions and Protection Fund or Municipal Pensions Security Fund  
104 created in §8-22-18b of this code, and other income sources as authorized by law, will be sufficient  
105 to meet the normal cost of the fund and amortize any actuarial deficiency over a period of not  
106 more than 40 years beginning January 1, 2010: *Provided*, That those municipalities using the  
107 standard method of financing in 2009 shall continue to amortize their actuarial deficiencies over  
108 a period of not more than 40 years beginning July 1, 1991. The required contribution shall be  
109 determined each plan year as described above by the actuary retained by the oversight board,  
110 based on an actuarial valuation reflecting actual demographic and investment experience and  
111 consistent with the Actuarial Standards of Practice published by the Actuarial Standards Board.

112 (3) A municipality choosing the optional method of financing a policemen's or firemen's  
113 pension and relief fund as provided in this subsection shall close the fund to police officers or fire  
114 fighters newly hired on or after January 1, 2010, and provide for those employees to be members  
115 of the Municipal Police Officers and Firefighters Retirement System as established in §8-22A-1  
116 *et seq.*, of this code.

117 (f)(1) Beginning April 1, 2011, any municipality using the alternative method of financing  
118 may choose a conservation method of financing its municipal policemen's and firemen's pension

119 and relief funds as outlined in this subsection, in lieu of the alternative method as provided in  
120 subdivision (1), subsection (c), or the optional method as provided in subsection (e) of this section.

121 (2) For those municipalities choosing the conservation method of finance, until a plan is  
122 funded at 100 percent, a part of each plan member's employee contribution to the fund equal to  
123 one and one-half percent of the employee's compensation, shall be deposited into and remain in  
124 the trust and accumulate investment return. In addition, until a plan is funded at 100 percent, an  
125 actuarially determined portion of the premium tax allocation to each fund provided in accordance  
126 with section fourteen-d, article three, and section seven, article twelve-c of chapter thirty-three of  
127 this code shall also be deposited into and remain in the trust and accumulate investment return.  
128 This variable percentage of premium tax allocation to be retained in each fund shall be determined  
129 annually by the qualified actuary provided pursuant to subsection (a) of this section to be an  
130 amount required, along with other assets of the fund as necessary to reach a funded level of 100  
131 percent in 35 years from the time of adoption of the conservation financing method. The variable  
132 percentage shall be calculated using a prospective four-year rolling average.

133 (3) Upon adoption of the conservation method of finance, the municipality shall close its  
134 pension and relief funds to new members and shall place police officers and firefighters newly  
135 hired after adoption of the conservation method into the Municipal Police Officers and Firefighters  
136 Retirement System created in §8-22A-1 *et seq.*, of this code.

137 (4) Upon adoption of the conservation method of financing, the minimum standard for  
138 annual municipality contributions to each policemen's or firemen's pension and relief fund shall  
139 be an amount which, together with member contributions and premium tax proceeds not required  
140 to be retained in the trust pursuant to this subsection, and other income sources as authorized by  
141 law, is sufficient to meet the annual benefit and administrative expense payments from the funds  
142 on a pay-as-you-go basis: *Provided*, That at the time the actuarial report required by this section  
143 indicates no actuarial deficiency in the municipal policemen's or firemen's pension and relief fund,  
144 the minimum annual required contribution of the municipality may not be less than an amount




145 which together with all member contributions and other income authorized by law, is sufficient to  
146 pay normal cost.

147 (g) Beginning with the July 1, 2020, actuarial valuation, the existing actuarial deficiency,  
148 prior to reflecting any new gains or losses as of July 1, 2020, such as those due to investment  
149 experience, differences between actual and expected contributions, demographic experience,  
150 and changes to actuarial assumptions, shall continue to be amortized as required by subsections  
151 (c) and (e) of this section: *Provided*, That on July 1, 2020, and each successive annual valuation  
152 date thereafter, the annual impacts on the funding deficiency due to: (i) New gains or losses on  
153 assets and liabilities; and (ii) changes in actuarial assumptions, shall each be amortized over a  
154 closed period of 15 years, thereby creating layers of amortization bases rather than amortizing  
155 the entire actuarial deficiency over the same single and decreasing period: *Provided, however*,  
156 That impacts on the funding deficiency due to plan changes shall be amortized over closed five  
157 year periods. The management of these amortization bases by the actuary should entail the  
158 consideration, at least every five years, of whether to implement strategies, such as the  
159 synchronization of certain amortization layers, to help avoid volatility to the sum of the  
160 amortization payments generally resulting from the expiration of charge and credit layers at  
161 different times. The required contribution shall be determined each plan year as described above  
162 by the actuary retained by the oversight board, based on an actuarial valuation reflecting actual  
163 demographic and investment experience and consistent with the Actuarial Standards of Practice  
164 published by the Actuarial Standards Board.


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

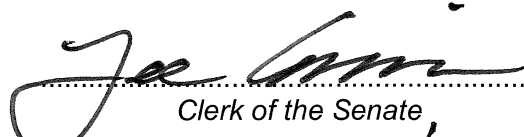
  
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Chairman, House Committee

  
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Chairman, Senate Committee

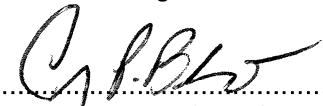
Originating in the House.

In effect ninety days from passage.

  
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Clerk of the House of Delegates

  
.....  
Clerk of the Senate

  
.....  
Speaker of the House of Delegates

  
.....  
President of the Senate

The within *is approved* this the *21st*  
day of *April* ..... 2021.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

APR 14 2021

Time 4:12pm