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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 33

(By Senator LOSS, ET AL)



PASSED APRIL 12, 1997

In Effect NINETY DAYS FROM Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

Senate Bill No. 33

(BY SENATORS ROSS, ANDERSON, SNYDER, HUNTER,
SHARPE AND BALL)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact sections fourteen-d and thirty-three, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the allocation of proceeds from the premium tax on fire and casualty insurance policies to volunteer and part volunteer fire departments and the teachers retirement system; altering the allocation of proceeds to municipal policemen's or firemen's pension and relief funds; and providing for a quarterly disbursement of such proceeds.

Be it enacted by the Legislature of West Virginia:

That sections fourteen-d and thirty-three, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reen-

acted, all to read as follows:

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

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

1 (a) For the purpose of providing additional revenue for
2 municipal policemen's and firemen's pension and relief
3 funds and the teachers retirement system reserve fund and
4 for volunteer and part volunteer fire companies and
5 departments, there is hereby levied and imposed an
6 additional premium tax equal to one percent of gross
7 direct premiums collected, less premiums returned to
8 policyholders because of cancellation of policies, for fire
9 insurance and casualty insurance policies. For purposes
10 of this section, casualty insurance does not include
11 insurance on the life of a debtor pursuant to or in connec-
12 tion with a specific loan or other credit transaction or
13 insurance on a debtor to provide indemnity for payments
14 becoming due on a specific loan or other credit transaction
15 while the debtor is disabled as defined in the policy.
16 Except as otherwise provided in this section, all provisions
17 of this article relating to the levy, imposition and collec-
18 tion of the regular premium tax are applicable to the levy,
19 imposition and collection of the additional tax set forth in
20 this section.

21 All moneys collected from this additional tax shall be
22 received by the commissioner and paid by him into a
23 special account in the state treasury, designated the
24 municipal pensions and protection fund. The net proceeds
25 of this tax after appropriation thereof by the Legislature
26 shall be distributed in accordance with the provisions of
27 this section.

28 (b) (1) Before the first day of August of each calendar
29 year thereafter, the treasurer of each municipality in
30 which a municipal policemen's or firemen's pension and
31 relief fund has been established shall report to the state
32 treasurer the average monthly number of members who
33 worked at least one hundred hours per month and the
34 average monthly number of retired members of municipal
35 policemen's or firemen's pension systems during the

36 preceding fiscal year.

37 (2) Before the first day of September of each calendar
38 year, the state treasurer shall allocate and authorize for
39 distribution the revenues in the municipal pensions and
40 protection fund which were collected during the preceding
41 calendar year for the purposes set forth in this section.
42 Sixty-five percent of the revenues shall be allocated to
43 municipal policemen's and firemen's pension and relief
44 funds; twenty-five percent of the revenues shall be allo-
45 cated to volunteer and part volunteer fire companies and
46 departments; and ten percent of such allocated revenues
47 shall be allocated to the teachers retirement system
48 reserve fund created by section eighteen, article seven-a,
49 chapter eighteen of this code: *Provided*, That in any year
50 the actuarial report required by section twenty, article
51 twenty-two, chapter eight of this code indicates no
52 actuarial deficiency in the municipal policemen's or
53 firemen's pension and relief fund, no revenues may be
54 allocated from the municipal pensions and protection fund
55 to that fund. The revenues from the municipal pensions
56 and protection fund shall then be allocated to all other
57 pension funds which have an actuarial deficiency.

58 (3) The moneys, and the interest earned thereon, in the
59 municipal pensions and protection fund allocated to
60 volunteer and part volunteer fire companies and depart-
61 ments shall be allocated and distributed quarterly to the
62 volunteer fire companies and departments. Before each
63 distribution date, the state fire marshal shall report to the
64 state treasurer the names and addresses of all volunteer
65 and part volunteer fire companies and departments within
66 the state which meet the eligibility requirements estab-
67 lished in section eight-a, article fifteen, chapter eight of
68 this code.

69 (c) (1) Each municipal pension and relief fund shall have
70 allocated and authorized for distribution a pro rata share
71 of the revenues allocated to municipal policemen's and
72 firemen's pension and relief funds based upon the corre-
73 sponding municipality's average monthly number of
74 members who worked at least one hundred hours per
75 month during the preceding fiscal year. On and after the

76 first day of July, one thousand nine hundred ninety-seven,
77 from the growth in any moneys collected pursuant to the
78 tax imposed by this section there shall be allocated and
79 authorized for distribution to each municipal pension and
80 relief fund, a pro rata share of the revenues allocated to
81 municipal policemen's and firemen's pension and relief
82 funds based upon the corresponding municipalities
83 average number of members who worked at least one
84 hundred hours per month and average monthly number of
85 retired members. For the purposes of this subsection, the
86 growth in moneys collected from the tax collected pursu-
87 ant to this section shall be determined by subtracting the
88 amount of the tax collected during the fiscal year ending
89 the thirtieth day of June, one thousand nine hundred
90 ninety-six, from the tax collected during the fiscal year for
91 which the allocation is being made. All moneys received
92 by municipal pension and relief funds under this section
93 may be expended only for those purposes described in
94 sections sixteen through twenty-eight, inclusive, article
95 twenty-two, chapter eight of this code.

96 (2) Each volunteer fire company or department shall
97 receive an equal share of the revenues allocated for
98 volunteer and part volunteer fire companies and depart-
99 ments.

100 (3) In addition to the share allocated and distributed in
101 accordance with subdivision (1) of this subsection, each
102 municipal fire department composed of full-time paid
103 members and volunteers and part volunteer fire compa-
104 nies and departments shall receive a share equal to the
105 share distributed to volunteer fire companies under
106 subdivision (2) of this subsection reduced by an amount
107 equal to such share multiplied by the ratio of the number
108 of full-time paid fire department members who are also
109 members of a municipal firemen's pension system to the
110 total number of members of such fire department.

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

§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part volunteer fire departments; special fund created; allocation of proceeds; effective date.

1 (a) For the purpose of providing additional revenue for
2 volunteer and part volunteer fire departments, certain
3 retired teachers and the teachers retirement reserve fund,
4 there is hereby authorized and imposed on and after the
5 first day of July, one thousand nine hundred ninety-two,
6 on the policyholder of any fire and casualty insurance
7 policy, a policy surcharge equal to one percent of gross
8 direct premium paid by the policyholder for each such
9 policy. For purposes of this section, casualty insurance
10 shall not include insurance on the life of a debtor pursuant
11 to or in connection with a specific loan or other credit
12 transaction or insurance on a debtor to provide indemnity
13 for payments becoming due on a specific loan or other
14 credit transaction while the debtor is disabled as defined
15 in the policy. The policy surcharge shall not be subject to
16 premium taxes, agent commissions or any other assess-
17 ment against premiums.

18 The policy surcharge shall be collected and remitted by
19 the insurer to the commissioner on forms prescribed by the
20 commissioner on a quarterly basis and are due on the
21 twenty-fifth day of the month succeeding the end of the
22 quarter in which they are collected except for the fourth
23 quarter for which the surcharge shall be due and payable
24 on or before the first day of March of the succeeding year.
25 All forms required by the commissioner shall be submitted
26 under the oath of the president and secretary of the
27 insurer.

28 Any insurer failing or refusing to collect and remit to the
29 commissioner any policy surcharge and whose surcharge
30 payments are not postmarked by the due dates for quar-
31 terly filing is liable for a civil penalty of up to one hun-
32 dred dollars for each day of delinquency, to be assessed by
33 the commissioner. The commissioner may suspend the
34 insurer until all surcharge payments and penalties, should
35 any penalty be imposed, are remitted in full to the com-
36 missioner.

37 One half of all money from the policy surcharge shall be
38 collected by the commissioner who shall disburse the
39 money received from the surcharge into a special account
40 in the state treasury, designated the "fire protection
41 fund". The net proceeds of this portion of the tax after
42 appropriation by the Legislature shall be distributed in
43 accordance with the provisions of subsection (c) of this
44 section. The remaining fifty percent of the moneys
45 collected shall be transferred to the teachers retirement
46 system to be disbursed according to the provisions of
47 sections twenty-six-j, twenty-six-k and twenty-six-l,
48 article seven-a, chapter eighteen of this code. Any balance
49 remaining after the disbursements authorized by this
50 subdivision have been paid shall be paid by the teachers
51 retirement system into the teachers retirement system
52 reserve fund.

53 (b) The moneys, and the interest earned thereon, in the
54 fire protection fund shall be allocated among and distrib-
55 uted quarterly to all volunteer and part volunteer fire
56 departments by the state treasurer. Before each distribu-
57 tion date, the state fire marshal shall report to the state
58 treasurer the names and addresses of all volunteer and
59 part volunteer fire companies and departments within the
60 state which meet the eligibility requirements established
61 in section eight-a, article fifteen, chapter eight of this
62 code.

63 The payments hereinabove provided shall be paid on the
64 first day of the months of January, April, July and October
65 of one thousand nine hundred ninety-eight and each year
66 thereafter.

67 (c) Each volunteer fire company or department shall
68 receive on an equal share basis the revenues allocated for
69 volunteer and part volunteer fire companies and depart-
70 ments under subdivision (1), subsection (a) of this section.

71 (d) The allocation, distribution and use of revenues
72 provided in the fire protection fund are subject to the
73 provisions of sections eight-a and eight-b, article fifteen,
74 chapter eight of this code.

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

Randy Schoner
.....
Chairman Senate Committee

Nick Fontasia
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carol K. Adams
.....
Clerk of the Senate

Gregory M. Gray
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul K. Tipton
.....
Speaker House of Delegates

The within *is approved* this the *6th*
day of *May*, 1997.

Jeff Blanton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/28/97

Time

2:19 pm