

1 Firefighters Retirement System plan to 2017.

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

3 That §8-22-18a, §8-22-19a and §8-22-25 of the Code of West
4 Virginia, 1931, as amended, be amended and reenacted; that said
5 code be amended by adding thereto a new section, designated
6 §8-22-18c; and that §8-22A-4 of said code be amended and reenacted,
7 all to read as follows:

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

13 **§8-22-18a. West Virginia Municipal Pensions Oversight Board**
14 **created; powers and duties; management;**
15 **composition; terms; quorum; expenses; reports.**

16 (a) (1) ~~There is established, on the effective date of the~~
17 ~~enactment of this section during the fourth extraordinary session~~
18 ~~of the Legislature in 2009,~~ The West Virginia Municipal Pensions
19 Oversight Board, established in 2009, is hereby continued as a
20 public body corporate for the purpose of monitoring and improving
21 the performance of municipal policemen's and firemen's pension and
22 relief funds to assure prudent administration, investment and

1 management of the funds. Management of the oversight board shall
2 be vested solely in the members of the oversight board. Duties of
3 the oversight board shall include, but not be limited to, assisting
4 municipal boards of trustees in performing their duties, assuring
5 the funds' compliance with applicable laws, providing for actuarial
6 studies, distributing tax revenues to the funds, initiating or
7 joining legal actions on behalf of active or retired pension fund
8 members or municipal boards of trustees to protect interests of the
9 members in the funds, and taking other actions as may be reasonably
10 necessary to provide for the security and fiscal integrity of the
11 pension funds. The oversight board's authority to initiate legal
12 action does not preempt the authority of municipalities; municipal
13 policemen's and firemen's boards of trustees; or pension fund
14 active members, beneficiaries or others to initiate legal action to
15 protect interests in the funds. Further, the oversight board may,
16 in its discretion, investigate the actions or practices of
17 municipal boards of trustees or of their administrators or
18 employees that, in the oversight board's judgment, have the
19 potential to threaten the security or fiscal integrity of the
20 pension funds and the boards of trustees, administrators and
21 employees shall cooperate with the oversight board in any
22 investigation. Regardless of whether it has previously conducted
23 an investigation, the oversight board may initiate or intervene in

1 legal actions to challenge or prevent any action or practice which,
2 in the oversight board's judgment has the potential to threaten the
3 security or fiscal integrity of the pension funds. ~~The oversight~~
4 ~~board is created as a public body corporate.~~ Establishment of the
5 oversight board does not relieve the municipal funds' boards of
6 trustees from their fiduciary and other duties to the funds, nor
7 does it create any liability for the funds on the part of the
8 state. The failure of the oversight board to investigate or
9 initiate legal actions regarding the actions or practices of
10 municipal boards of trustees, their administrators or employees
11 does not render the oversight board liable for the actions or
12 practices. Members and employees of the oversight board are not
13 liable personally, either jointly or severally, for debts or
14 obligations of the municipal pension and relief funds. Except as
15 otherwise provided herein, members and employees of the oversight
16 board have a fiduciary duty toward the municipal pension and relief
17 funds and are liable for malfeasance or gross negligence.
18 Employees of the oversight board are ~~nonclassified~~
19 classified-exempt state employees.

20 (2) The oversight board shall consist of nine members. The
21 executive director of the state's Investment Management Board and
22 the executive director of the state's Consolidated Public
23 Retirement Board, or their designees, shall serve as voting ex

1 officio members. The other seven members shall be citizens of the
2 state who have been qualified electors of the state for a period of
3 at least one year next preceding their appointment and shall be as
4 follows: An active or retired member of a Municipal Policemen's
5 Pension and Relief Fund chosen from a list of three persons
6 submitted to the Governor by the state's largest professional
7 municipal police officers organization, an active or retired member
8 of a Municipal Firemen's Pension and Relief Fund chosen from a list
9 of three persons submitted to the Governor by the state's largest
10 professional firefighters organization, an attorney experienced in
11 finance and investment matters related to pensions management, two
12 persons experienced in pension funds management, one person who is
13 a certified public accountant experienced in auditing and one
14 person chosen from a list of three persons submitted to the
15 Governor by the state's largest association of municipalities.

16 (3) On the effective date of the enactment of this section as
17 amended during the fourth extraordinary session of the Legislature
18 in 2009, the Governor shall forthwith appoint the members, with the
19 advice and consent of the Senate. The Governor may remove any
20 member from the oversight board for neglect of duty, incompetency
21 or official misconduct.

22 (b) The oversight board has the power to:

23 (1) Enter into contracts, to sue and be sued, to implead and

1 be impleaded;

2 (2) Promulgate and enforce bylaws and rules for the management
3 and conduct of its affairs;

4 (3) Maintain accounts and invest those funds which the
5 oversight board is charged with receiving and distributing;

6 (4) Make, amend and repeal bylaws, rules and procedures
7 consistent with the provisions of this article and chapter
8 thirty-three of this code;

9 (5) Notwithstanding any other provision of law, retain or
10 employ, fix compensation, prescribe duties and pay expenses of
11 legal, accounting, financial, investment, management and other
12 staff, advisors or consultants as it considers necessary, including
13 the hiring of legal counsel and actuary; and

14 (6) Do all things necessary and appropriate to implement and
15 operate the board in performance of its duties. Expenses shall be
16 paid from the moneys in the Municipal Pensions Security Fund
17 created in section eighteen-b of this article or, prior to the
18 transition provided in section eighteen-b of this article, the
19 Municipal Pensions and Protection Fund: *Provided*, That the board
20 may request special appropriation for special projects. The
21 oversight board is exempt from provisions of article three, chapter
22 five-a of this code for the purpose of contracting for actuarial
23 services, including the services of a reviewing actuary.

1 (c) Except for ex officio members, the terms of oversight
2 board members shall be staggered initially from January 1, 2010.
3 The Governor shall appoint initially one member for a term of one
4 year, one member for a term of two years, two members for terms of
5 three years, one member for a term of four years and two members
6 for terms of five years. Subsequent appointments shall be for
7 terms of five years. A member serving two full consecutive terms
8 may not be reappointed for one year after completion of his or her
9 second full-term. Each member shall serve until that member's
10 successor is appointed and qualified. Any member may be removed by
11 the Governor in case of incompetency, neglect of duty, gross
12 immorality or malfeasance in office. Any vacancy on the oversight
13 board shall be filled by appointment by the Governor for the
14 balance of the unexpired term.

15 (d) A majority of the full authorized membership of the
16 oversight board constitutes a quorum. The board shall meet at
17 least quarterly each year, but more often as duties require, at
18 times and places that it determines. The oversight board shall
19 elect a chairperson and a vice chairperson from their membership
20 who shall serve for terms of two years and shall select annually a
21 secretary/treasurer who may be either a member or employee of the
22 board. The oversight board shall employ an executive director and
23 other staff as needed and shall fix their duties and compensation.

1 The compensation of the executive director shall be subject to
2 approval of the Governor. Except for any special appropriation as
3 provided in subsection (b) of this section, all personnel and other
4 expenses of the board shall be paid from revenue collected and
5 allocated for municipal policemen's or municipal firemen's pension
6 and relief funds pursuant to section fourteen-d, article three,
7 chapter thirty-three of this code and distributed through the
8 Municipal Pensions and Protection Fund or the Municipal Pensions
9 Security Fund created in section eighteen-b of this article.
10 Expenses during the initial year of the board's operation shall be
11 from proceeds of the allocation for the municipal pensions and
12 relief funds. Expenditures in years thereafter shall be by
13 appropriation from the Municipal Pensions Security Fund. Money
14 allocated for municipal policemen's and firemen's pension and
15 relief funds to be distributed from the Municipal Pensions and
16 Protection Fund or the Municipal Pensions Security Fund shall be
17 first allocated to pay expenses of the oversight board and the
18 remainder in the fund distributed among the various municipal
19 pension and relief funds as provided in section fourteen-d, article
20 three, chapter thirty-three of this code. The board is exempt from
21 the provisions of sections seven and eleven, article three, chapter
22 twelve of this code relating to compensation and expenses of
23 members, including travel expenses.

1 (e) Members of the oversight board shall serve the board
2 without compensation for their services: *Provided*, That no public
3 employee member may suffer any loss of salary or wages on account
4 of his or her service on the board. Each member of the board shall
5 be reimbursed, on approval of the board, for any necessary expenses
6 actually incurred by the member in carrying out his or her duties.
7 All reimbursement of expenses shall be paid out of the Municipal
8 Pensions Security Fund.

9 (f) The board may contract with other state boards or state
10 agencies to share offices, personnel and other administrative
11 functions as authorized under this article: *Provided*, That no
12 provision of this subsection may be construed to authorize the
13 board to contract with other state boards or state agencies to
14 otherwise perform the duties or exercise the responsibilities
15 imposed on the board by this code.

16 (g) The board shall propose rules for legislative approval in
17 accordance with the provisions of article three, chapter
18 twenty-nine-a of this code as necessary to implement the provisions
19 of this article, and may initially promulgate emergency rules
20 pursuant to the provisions of section fifteen, article three,
21 chapter twenty-nine-a of this code.

22 (h) The oversight board shall report annually to the
23 Legislature's Joint Committee on Government and Finance and the

1 Joint Committee on Pensions and Retirement concerning the status of
2 municipal policemen's and firemen's pension and relief funds and
3 shall present recommendations for strengthening and protecting the
4 funds and the benefit interests of the funds' members.

5 (i) The oversight board shall cooperate with the West Virginia
6 Investment Management Board and the Board of Treasury Investments
7 to educate members of the local pension boards of trustees on the
8 services offered by the two state investment boards. No later than
9 October 31, 2013, the board shall report to the Joint Committee on
10 Government and Finance and the Joint Committee on Pensions and
11 Retirement a detailed comparison of returns on long-term
12 investments of moneys held by or allocated to municipal pension and
13 relief funds managed by the West Virginia Investment Management
14 Board and those managed by others than the Investment Management
15 Board. The oversight board shall also report at that time on
16 short-term investment returns by local pension boards using the
17 West Virginia Board of Treasury Investments compared to short-term
18 investment returns by those local boards of trustees not using the
19 Board of Treasury Investments.

20 (j) The oversight board shall establish minimum requirements
21 for training to be completed by each member of the board of
22 trustees of a Municipal Policemen's or Firemen's Pension and Relief
23 Fund. The requirements should include, but not be limited to,

1 training in ethics, fiduciary duty and investment responsibilities.

2 **§8-22-18c. Notice of legal actions by or against municipal**
3 **policemen's and firemen's pension funds.**

4 In any legal action in which a municipal policemen's or
5 firemen's pension and relief fund, or the fund's board of trustees,
6 employee or administrator, is named as a party, the plaintiff or
7 petitioner shall serve a copy of the complaint or petition upon the
8 oversight board by certified mail, return receipt requested, within
9 seven days of filing the legal action. Until proof of service is
10 filed with the clerk of the court in which the action was filed,
11 and for sixty days after the filing of the proof of service, no
12 order may be entered by the court that directly or indirectly
13 requires the expenditure or other disposition of pension funds or
14 that determines the eligibility or entitlement of any member to any
15 pension benefit payable from the pension and relief fund: *Provided,*
16 That the court may enter such temporary or interim orders as may be
17 needed to preserve and protect the assets of the fund. In any legal
18 action involving a municipal policemen's or firemen's pension and
19 relief fund the oversight board is entitled to intervene for the
20 purpose of preserving the security or fiscal integrity of the
21 pension fund.

22 **§8-22-19a. Refunds of member contributions.**

23 After January 1, 2010, any member of a paid police department

1 or fire department who is removed or discharged or who before
2 retirement on any retirement pension or disability pension severs
3 his or her connection with said department, whether or not
4 consecutive, shall, upon request, be refunded all pension and
5 relief fund deductions made from ~~his~~ the member's salary or
6 compensation, but without interest from the fund. The refund shall
7 come from the accounts which originally received the member
8 deductions. For municipalities using the conservation method of
9 funding, the member contributions are to be refunded from both the
10 Municipal Pension and Relief Fund and the city benefit account, in
11 the exact percentages that were initially deposited to the
12 respective accounts. Any member who receives ~~such~~ a refund and
13 ~~such member~~ subsequently wishes to reenter ~~the~~ his or her
14 department, ~~such police officer or fire fighter~~ shall not be
15 allowed to reenter the department unless ~~such~~ the police officer or
16 fire fighter repays to the pension and relief fund all sums
17 refunded to him or her in a lump sum at the date of reentry, or by
18 monthly payroll deductions within thirty-six months from the date
19 he or she reenters the department, with interest at the rate of
20 eight percent per annum. In the event such refund is made prior to
21 January 1, 1981, and such member subsequently reenters the
22 department such police officer or firefighter shall be allowed
23 membership in such pension and relief fund; however, no credit may

1 be allowed such member for any former service, unless such member
2 repays to the pension and relief fund all sums refunded to ~~him~~ the
3 member within one year from the date ~~he~~ the member reenters the
4 department with interest at the rate of eight percent per annum:
5 *Provided, That any member who, on or before June 3, 1955, reentered*
6 ~~the paid police or fire department shall be allowed credit for any~~
7 ~~former service in the same department reentered if he, within one~~
8 ~~year from said June 3, 1955, repaid all sums withdrawn or refunded~~
9 ~~to him with interest at the rate of six percent per annum, but for~~
10 such member who receives such refund prior to January 1, 1980,
11 interest may not be charged for more than three years. Any
12 probationary member of a paid police or fire department who is not
13 given an absolute appointment at the end of ~~his~~ the member's
14 probationary period shall, upon request, be refunded all pension
15 and relief fund deductions made from ~~his~~ the member's salary or
16 compensation, but without interest. Any member contribution made
17 in fiscal years beginning on July 1, 1981 and thereafter by any
18 members of such fund, which is in excess of the percentages,
19 required in section nineteen of this article of such member's
20 salary or compensation as defined in section sixteen of this
21 article shall be refunded with eight percent interest to such
22 member upon completion of the calculation of ~~his~~ the member's
23 retirement benefit.

1 **§8-22-25. Retirement pensions.**

2 (a) Any member of a paid police or fire department who is
3 entitled to a retirement pension hereunder, and who has been in the
4 honorable service of such department for twenty years, may, upon
5 written application to the board of trustees, be retired from all
6 service in such department without medical examination or
7 disability. On such retirement the board of trustees shall
8 authorize the payment of annual retirement pension benefits
9 commencing upon ~~his~~ the member's retirement or upon ~~his~~ the
10 member's attaining the age of fifty years, whichever is later,
11 payable in twelve monthly installments for each year of the
12 remainder of ~~his~~ the member's life, in an amount equal to sixty
13 percent of such member's average annual salary or compensation
14 received during the three twelve-consecutive-month periods of
15 employment with such department in which such member received ~~his~~
16 the member's highest salary or compensation while a member of the
17 department, or an amount of \$500 per month, whichever is greater.

18 (b) Any member of any such department who is entitled to a
19 retirement pension under the provisions of subsection (a) of this
20 section and who has been in the honorable service of such
21 department for more than twenty years at the time of ~~his~~ the
22 member's retirement shall receive, in addition to the sixty percent
23 authorized in said subsection (a):

1 (1) Two additional percent, to be added to the sixty percent
2 for each of the first five additional years of service completed at
3 the time of retirement in excess of twenty years of service up to
4 a maximum of seventy percent; and

5 (2) One additional percent, to be added to such maximum of
6 seventy percent, for each of the first five additional years of
7 service completed at the time of retirement in excess of
8 twenty-five years of service up to a maximum of seventy-five
9 percent.

10 The total additional credit provided for in this subsection
11 may not exceed fifteen additional percent.

12 (c) Any member of any such department whose service has been
13 interrupted by duty with the Armed Forces of the United States as
14 provided in section twenty-seven of this article prior to July 1,
15 1981, shall be eligible for retirement pension benefits immediately
16 upon retirement, regardless of ~~his~~ the member's age, if ~~he~~ the
17 member shall otherwise be eligible for such retirement pension
18 benefits. In no event are provisions of this subsection to be
19 interpreted to permit retirement before age fifty unless the
20 interruption of the member's service by duty with the Armed Forces
21 of the United States actually occurred before July 1, 1981. The
22 amendment made to this subsection during the 2013 Regular Session
23 of the Legislature is not for the purpose of changing the existing

1 law regarding benefits provided to veterans for military service
2 prior to July 1, 1981, but to further clarify that the provisions
3 of this section and any previous enactments of this section do not
4 make a member eligible for retirement before age fifty for a
5 member's service with the Armed Forces of the United States prior
6 to July 1, 1981.

7 Any member or previously retired member of any such department
8 who has served in active duty with the Armed Forces of the United
9 States as described in section twenty-seven of this article,
10 whether prior to or subsequent to becoming a member of a paid
11 police or fire department covered by the provisions of this
12 article, shall receive, in addition to the sixty percent authorized
13 in subsection (a) of this section and the additional percent credit
14 authorized in subsection (b) of this section, one additional
15 percent for each year so served in active military duty, up to a
16 maximum of four additional percent. In no event, however, may the
17 total benefit granted to any member exceed seventy-five percent of
18 the member's annual average salary calculated in accordance with
19 subsection (a) of this section.

20 (d) Any member of a paid police or fire department shall be
21 retired at the age of sixty-five years in the manner provided in
22 this subsection. When a member of the paid police or fire
23 department reaches the age of sixty-five years, the said board of

1 trustees shall notify the mayor of this fact, within thirty days of
2 such member's sixty-fifth birthday. The mayor shall cause such
3 sixty-five-year-old member of the paid police or fire department to
4 retire within a period of not more than thirty additional days.
5 Upon retirement under the provisions of this subsection, such
6 member shall receive retirement pension benefits payable in twelve
7 monthly installments for each year of the remainder of ~~his~~ the
8 member's life in an amount equal to sixty percent of such member's
9 average annual salary or compensation received during the three
10 twelve-consecutive-month periods of employment with such department
11 in which such member received ~~his~~ the member's highest salary or
12 compensation while a member of the department, or an amount of \$500
13 per month, whichever is greater. If such member has been employed
14 in said department for more than twenty years, the provisions of
15 subsection (b) of this section shall apply.

16 (e) It shall be the duty of each member of a paid police or
17 fire department at the time a fund is hereafter established to
18 furnish the necessary proof of ~~his~~ the member's date of birth to
19 the said board of trustees, as specified in section twenty-three of
20 this article, within a reasonable length of time, said length of
21 time to be determined by the said board of trustees. Then the
22 board of trustees and the mayor shall proceed to act in the manner
23 provided in subsection (d) of this section and shall cause all

1 members of the paid police or fire department who are over the age
 2 of sixty-five years to retire in not less than sixty days from the
 3 date the fund is established. Upon retirement under the provisions
 4 of this subsection (e), such member, whether ~~he~~ the member has been
 5 employed in said department for twenty years or not, shall receive
 6 retirement pension benefits payable in twelve monthly installments
 7 for each year of the remainder of ~~his~~ the member's life in an
 8 amount equal to sixty percent of such member's average annual
 9 salary or compensation received during the three
 10 twelve-consecutive-month periods of employment with such department
 11 in which such member received ~~his~~ the member's highest salary or
 12 compensation while a member of the department, or an amount of \$500
 13 per month, whichever is greater. If such member has been employed
 14 in said department for more than twenty years, the provisions of
 15 subsection (b) of this section shall apply.

16 **ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND**
 17 **FIREFIGHTERS RETIREMENT SYSTEM.**

18 **§8-22A-4. Creation and administration of West Virginia Municipal**
 19 **Police Officers and Firefighters Retirement System;**
 20 **specification of actuarial assumptions.**

21 There is hereby created the West Virginia Municipal Police
 22 Officers and Firefighters Retirement System. The purpose of this

1 system is to provide for the orderly retirement of certain police
2 officers and firefighters who become superannuated because of age
3 or permanent disability and to provide certain survivor death
4 benefits. Substantially all of the members of the retirement
5 system shall be qualified public safety employees as defined in
6 section two of this article. The retirement system shall come into
7 effect January 1, 2010: *Provided*, That if the number of members in
8 the system are fewer than one hundred on January 1, ~~2014~~ 2017, then
9 all of the provisions of this article are void and of no force and
10 effect, and memberships in the system will be merged into the
11 Emergency Medical Services Retirement System created in article
12 five-v, chapter sixteen of this code. If merger is required, the
13 board shall take all necessary steps to see that the voluntary
14 transfers of persons and assets authorized by this article do not
15 affect the qualified status with the Internal Revenue Service of
16 either retirement plan. All business of the system shall be
17 transacted in the name of the West Virginia Municipal Police
18 Officers and Firefighters Retirement System. The board shall
19 specify and adopt all actuarial assumptions for the plan at its
20 first meeting of every calendar year or as soon thereafter as may
21 be practicable, which assumptions shall become part of the plan.

NOTE: This purpose of this bill is to grant additional investigatory and legal powers and duties of the West Virginia Municipal Pensions Oversight Board. The bill requires certain notices of lawsuits to the West Virginia Municipal Pensions Oversight Board. The bill limits certain court orders under certain circumstances. The bill clarifies that a member may retire when the member's service has been interrupted by duty with the Armed Forces of the United States. The bill extends the cut-off date for the West Virginia Municipal Police Officers and Firefighters Retirement System plan from 2014 to 2017.

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

§8-22-18c is new; therefore, strike-throughs and underscoring have been omitted.