

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2661**

By Delegate Burkhammer

[Introduced February 20, 2025; referred to the  
Committee on the Judiciary then Finance]

1 A BILL to amend and reenact §33-3-14d of the Code of West Virginia, 1931, as amended, relating  
2 to providing equal share of funds from the fire and casualty premium tax to part volunteer  
3 departments.

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

**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)(1) For the purpose of providing additional revenue for municipal policemen's and  
2 firemen's pension and relief funds and the Teachers Retirement System Reserve Fund and for  
3 volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed  
4 an additional premium tax equal to one percent of taxable premiums for fire insurance and  
5 casualty insurance policies. For purposes of this section, casualty insurance does not include  
6 insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit  
7 transaction or insurance on a debtor to provide indemnity for payments becoming due on a  
8 specific loan or other credit transaction while the debtor is disabled as defined in the policy.

9 (2) All moneys collected from this additional tax shall be received by the commissioner and  
10 paid by him or her into a special account in the State Treasury, designated the Municipal Pensions  
11 and Protection Fund: *Provided*, That on or after January 1, 2010, the commissioner shall pay 10  
12 percent of the amount collected to the Teachers Retirement System Reserve Fund created in §18-  
13 7A-18 of this code, 25 percent of the amount collected to the Fire Protection Fund created in §33-  
14 3-33 of this code for allocation by the Treasurer to volunteer and part-volunteer fire companies and  
15 departments and 65 percent of the amount collected to the Municipal Pensions and Protection  
16 Fund: *Provided, however*, That upon notification by the Municipal Pensions Oversight Board  
17 pursuant to the provisions of §8-22-18b this code, on or after January 1, 2010, or as soon  
18 thereafter as the Municipal Pensions Oversight Board is prepared to receive the funds, 65 percent  
19 of the amount collected by the commissioner shall be deposited in the Municipal Pensions

Security Fund created in §8-22-18b of this code. The net proceeds of this tax after appropriation thereof by the Legislature is distributed in accordance with the provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d) of this code.

(b)(1) Before August 1 of each year, the treasurer of each municipality in which a municipal policemen's or firemen's pension and relief fund is established shall report to the State Treasurer the average monthly number of members who worked at least one hundred hours per month and the average monthly number of retired members of municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System during the preceding fiscal year: *Provided*, That beginning in the year 2010 and continuing thereafter, the report shall be made to the oversight board created in §8-22-18a of this code. These reports received by the oversight board shall be provided annually to the State Treasurer by September 1.

(2) Before September 1 of each calendar year, the State Treasurer, or the Municipal Pensions Oversight Board, once in operation, shall allocate and authorize for distribution the revenues in the Municipal Pensions and Protection Fund which were collected during the preceding calendar year for the purposes set forth in this section. Before September 1 of each calendar year and after the Municipal Pensions Oversight Board has notified the Treasurer and commissioner pursuant to §8-22-18b of this code, the Municipal Pensions Oversight Board shall allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund which were collected during the preceding calendar year for the purposes set forth in this section. In any year the actuarial report required by §8-22-20 of this code indicates that no actuarial deficiency exists in the municipal policemen's or firemen's pension and relief fund and that no pension funding revenue bonds of the building commission of such municipality remain outstanding, no revenues may be allocated from the Municipal Pensions and Protection Fund or the Municipal Pensions Security Fund to that fund. The revenues from the Municipal Pensions and Protection Fund shall then be allocated to all other pension and relief funds which have an actuarial deficiency. Pension funding revenue bonds include bonds of a municipality's building commission

the net proceeds of which were used to fund either or both of a municipality's policemen's or firemen's pension and relief fund or bonds issued to refinance such bonds.

(3) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If the municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down one hundred percent of their allocations.

(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated and distributed quarterly to the volunteer fire companies and departments. Before each distribution date, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8A of this code.

(c)(1) Each municipal pension and relief fund shall have allocated and authorized for distribution a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average monthly number of police officers and firefighters who worked at least one hundred hours per month during the preceding fiscal year. On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax imposed by this section and interest thereon there shall be allocated and authorized for distribution to each municipal pension and relief fund, a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding

72 municipality's average number of police officers and firefighters who worked at least 100 hours per  
73 month and average monthly number of retired police officers and firefighters. For the purposes of  
74 this subsection, the growth in moneys collected from the tax collected pursuant to this section is  
75 determined by subtracting the amount of the tax collected during the fiscal year ending June 30,  
76 1996, from the tax collected during the fiscal year for which the allocation is being made and  
77 interest thereon. All moneys received by municipal pension and relief funds under this section may  
78 be expended only for those purposes described in sections 16 through 28a, inclusive, article 22,  
79 chapter eight of this code. Notwithstanding the foregoing provision of this subdivision, if a  
80 municipality has outstanding pension funding revenue bonds and continues to pay the normal cost  
81 of its policemen's and firemen's pension and relief funds, then the allocable share of revenues to  
82 be allocated which would otherwise have been allocated to a municipal policemen's or firemen's  
83 pension and relief fund shall instead be allocated to the trustee of any outstanding pension funding  
84 revenue bonds.

85 (2) Each volunteer or part volunteer fire company or department shall receive an equal  
86 share of the revenues allocated for volunteer and part-volunteer fire companies and departments.

87 (3) In addition to the share allocated and distributed in accordance with subdivision (1) of  
88 this subsection, each municipal fire department composed of full-time paid members ~~and~~  
89 ~~volunteers and part-volunteer fire companies and departments~~ shall receive a share equal to the  
90 share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by  
91 an amount equal to the share multiplied by the ratio of the number of full-time paid fire department  
92 members who are also members of a municipal firemen's pension and relief fund or the Municipal  
93 Police Officers and Firefighters Retirement System to the total number of members of the fire  
94 department. If a municipality has outstanding pension funding revenue bonds and continues to  
95 pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that  
96 would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this  
97 subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.

98 (d) The allocation and distribution of revenues provided in this section are subject to the  
99 provisions of §8-22-20 of this code and §8-15-8a and §8-15-8b of this code.

100 (e) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and  
101 declares that during the period of 1982 through April 27, 2012, allocations from the Municipal  
102 Pensions and Protection Fund were miscalculated and errors were made in amounts transferred,  
103 resulting in overpayments and underpayments to the relief and pension funds and to the Teachers  
104 Retirement System, and that the relief and pension funds and the Teachers Retirement System  
105 were not at fault for any of the overpayments and underpayments. The Legislature hereby further  
106 finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to  
107 recover any of the overpayments would be unjust and create economic hardship for the entities  
108 that received overpayments. No entity, including, without limitation, the Municipal Pension  
109 Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement  
110 System or the state any overpayments received from the Municipal Pensions and Protection Fund  
111 and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the  
112 Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds  
113 through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of  
114 \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection  
115 Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to  
116 this subsection, and to use the amount transferred to remit the amounts due to the pension and  
117 relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction  
118 of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight  
119 Board and any pension or relief fund, may seek to recover any further amounts.

NOTE: The purpose of this bill relates to providing equal share of funds from the fire and casualty premium tax to part volunteer departments.

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