SPONSOR: Sen. McDowell & Rep. Keeley
Sens. Henry, Marshall, Townsend, Walsh; Reps. Bolden, Brady, Carson, Heffernan, J. Johnson, Lynn, Matthews, Potter

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 11

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO SPECIAL FUNDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 708, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 708. Distribution of proceeds of tax.

(a) Each insurance company, firm or corporation covered by the provisions of § 707 of this title shall, at the time of making tax payments, deliver to the Insurance Commissioner a full and detailed statement showing the gross amount of premiums received and assessments collected and dividends paid to policy holders by such insurance company, firm or corporation or the authorized agent thereof for the calendar year immediately preceding the date provided for in § 707 of this title for tax payments, and such statement shall be verified by the oath or affirmation of the president or secretary or other responsible officer of said company, duly administered by some person authorized to administer oaths. Said statement shall be on the blanks prepared and furnished by the Insurance Commissioner for the purpose of carrying out the provisions of this section and § 707 of this title.

(b) The money received by the Insurance Commissioner in accordance with the provisions of § 707 of this title shall be paid to the State Treasurer and shall be set aside as a special fund and shall be paid out by the State Treasurer, subject to the provisions of subsection (c) of this section, to the proper officers in charge of any state, county or municipal police department or bureau having a pension fund, or which shall hereafter by law have a police pension fund. The State Treasurer shall determine the total number of state, county and municipal police entitled to benefits under the provisions of this section and § 707 of this title from an annual registry in accordance with § 709(a) of this title, and shall make distribution proportionately and on a per capita basis, subject to the provisions of subsection (c) of this section, to the proper officers of any state, county or municipal police department or bureau complying with the provisions of this section and § 707 of this title. Distribution under this section shall take place twice annually, on or before June 30 and December 31.

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(c)(1) The payments to the State referred to in this section for "state police," as defined in § 706 of this title, shall be deposited into a special fund, to be managed by the State Board of Pension Trustees, to provide post-retirement increases for retired county and municipal police and firefighters. The State Board of Pension Trustees shall allocate the funds deposited in this special fund on a per capita basis to the account of each eligible county or municipality based upon the annual registry in accordance with § 709(b) of this title, provided that the eligible county or municipality has elected to participate in the State-administered County and Municipal Police/Firefighter Pension Plan for all new hires after the time a municipality or county elects into that plan in accordance with Chapter 88 of Title 11. No funds shall be disbursed from this special fund without the prior approval of the Board of Pension Trustees.

(2) Any county or municipality wishing to grant a post-retirement increase from this fund shall submit a proposal to the State Board of Pension Trustees outlining the proposal in such detail as the State Board of Pension Trustees may require. The State Board of Pension Trustees shall not approve any proposal for a post-retirement increase unless the county or municipality requesting such increase agrees to deposit into this special fund, prior to the implementation of such increase, sufficient funds to cover 25% of the total actuarial cost of such increase.

(3) Any funds on deposit in this special fund, including accumulated income, shall revert to the General Fund, if such funds are not utilized for a post-retirement increase by the eligible counties or municipalities within 10 years from the date of deposit into the special fund.

(4) If a county or municipality does not submit a proposal to the State Board of Pension Trustees, the State Board of Pension Trustees shall distribute funds from the account within this special fund to the county or municipality participants for the benefit of all eligible individuals who started receiving a normal retirement, disability, or survivor pension before June 29, 2018 and who are otherwise eligible to receive payment on July 1, 2019. The State Board of Pension Trustees shall distribute the funds consistent with the following:

a. For purposes of this section, “eligible retiree” means an individual who is alive on June 30, 2018, and who retired before June 30, 2016; a surviving beneficiary; or an individual receiving a disability pension.

b. Eligible retirees must be placed into 1 of the following 3 categories:

1. Category 1, consisting of individuals who are 1 of the following:

A. Retired for greater than or equal to 20 years.

B. A surviving beneficiary.

C. Receiving a disability pension.

2. Category 2, consisting of individuals who have been retired for greater than or equal to 10 years but less than 20 years.

3. Category 3, consisting of individuals who have been retired for less than 10 years.

c. On each biennial anniversary starting from September 1, 2019, and each biennial anniversary thereafter, the State Board of Pension Trustees shall make funds available for distribution from this special fund, in an amount to be determined by the State Board of Pension Trustees, as follows:

1. At least $500,000 must remain in this special fund after distributions are made to eligible retirees.

2. Payments to eligible retirees in Category 3 must not exceed $3,000 to each individual.

3. The amount of the payment to each individual in Category 1 shall be 3 times the amount of the payment to each individual in Category 3 and the amount of the payment to each individual in Category 2 shall be 2 times the amount of the payment to each individual in Category 3.

4. A payment may not be made to any individual who receives an annual pension of more than $35,000.

d. The State Board of Pension Trustees shall determine the total amount available for distribution in any given year by July 1 of such year based upon the category information received from the county or municipality before July 1 of such year.

e. A distribution made under this subsection may not be deemed to be a post-retirement increase.

f. A county or municipality must disperse payments to eligible retirees within 30 days of receiving the funds under paragraph (c)(4)c. of this section.

SYNOPSIS

This Act relates to police and fire pension funds created under Title 18 of the Delaware Code. The General Assembly created a special fund in the hopes of ensuring adequate pensions for affected police officers and firefighters, and their surviving spouses. This has not come to pass with regard to all pensions, however. By way of example only, the average surviving spouse in the Wilmington Police and Fire retirement plan receives a pension of only $10,080, which is $1,090 dollars below the 2012 poverty level. Moreover, there have been only five disbursements under the special fund in its 48 year history. To address this, the Act would allow for an additional manner of providing distributions from the related special fund established for Police and Fire pensions. Specifically, disbursements from the fund to be made under this Act would be biennial and structured in 3 categories. The 3 categories are based upon length of retirement and whether the eligible individual is a surviving spouse or receiving a disability pension.

Author: Senator McDowell