WEST VIRGINIA CODE: §18-7A-26

§18-7A-26. Computation of annuities.

(a) Retirants whose annuities were approved by the retirement board effective before July 1, 1980, shall be paid the annuities which were approved by the retirement board.

(b) Annuities approved by the retirement board effective after June 30, 1980, shall be computed as provided in this section.

(c) Upon establishment of eligibility for a retirement allowance, a member shall be granted an annuity which shall be two percent of the member's average salary multiplied by his or her total service credit, subject to reduction if necessary to comply with the maximum benefit provisions of Section 415 of the Internal Revenue Code and section twenty-eight-a of this article.

In this subsection "average salary" means the average of the highest annual salaries received by the member during any five plan years contained within his or her last fifteen years of total service credit: Provided, That the highest annual salary used in this calculation for certain members employed by the West Virginia Higher Education Policy Commission under its control shall be $4,800, as provided by section fourteen-a of this article.

(d) The disability annuities of all disabled retirants shall be based upon a disability table prepared by a competent actuary approved by the retirement board. Disability annuity benefits will begin the first day of the month following the latter of: (1) Six months of absence caused by said disability; (2) date of written report by physician selected by retirement board stating member is mentally or physically incapacitated for service and that disability is total and likely to be permanent; and (3) termination of employment.

(e) Upon the death of a retirant who qualified for an annuity as the surviving spouse of an active member or because of permanent disability, the estate of the deceased or beneficiary designated for such purpose shall be paid the difference, if any, between the member's contributions with regular interest thereon, and the sum of the annuity payments. Upon the death of a spouse who was named as the member's survivor, a retirant may elect an annuity option approved by the retirement board in an amount adjusted on a fair basis to be of equal actuarial value as the annuity prospectively in effect relative to the surviving member at the time the new option is elected.

(f) All annuities shall be paid in twelve monthly payments. In computing the monthly payments, fractions of a cent shall be considered a cent. The monthly payments shall cease with the payment for the month within which the beneficiary dies, and shall begin with the payment for the month succeeding the month within which the retirant became eligible under this article for the annuity granted; in no case, however, shall a retirant receive more than four monthly payments which are retroactive after the retirement board receives his or

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her application for annuity. The monthly payments shall be made on the twenty-fifth day of each month, except the month of December, when the payment shall be made on December 18. If the date of payment falls on a holiday, Saturday or Sunday, then the payment shall be made on the preceding workday.

(g) In case the retirement board receives data affecting the approved annuity of a retirant, the annuity shall be changed in accordance with the data, the change being effective with the payment for the month within which the retirement board received the new data.

(h) Any person who has attained the age of sixty-five and who has served at least twenty-five years as a teacher or nonteacher prior to July 1, 1941, is eligible for prior service credit and for prior service pensions as prescribed in this section.

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