WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

SENATE BILL No. 142

(By Mr. Hardesty and McKown)

PASSED March 9 1945

In Effect from Passage
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AN ACT to amend and reenact sections three, thirteen, fifteen, sixteen, seventeen, eighteen, twenty-five, and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to add to such article a new section to be designated section thirty-four, all relating to the benefits and coverage provided for members of the state teachers' retirement system.

Be it enacted by the Legislature of West Virginia:

That sections three, thirteen, fifteen, sixteen, seventeen, eighteen, twenty-five, and twenty-six, article seven-a, chapter
eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that a new section, to be designated thirty-four, be added to such article, all to read as follows:

Section 3. Definitions.—"Teacher" shall include the following persons, if regularly employed for at least half time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) Principals; (c) Public school librarians; (d) County superintendents of schools and assistant county superintendents of schools; (e) Any county school attendance director holding a West Virginia teachers' certificate; (f) The executive secretary of the retirement board; (g) Members of the research, extension, administrative or library staffs of the public schools; (h) The state superintendent of schools, heads and assistant heads of the divisions under his supervision, or any other employee thereunder performing services of an educational nature; (i) Employees of the state board of education who are performing services of an educational nature; (j) Any person employed in a non-teaching capacity by the state board of education,
the board of governors of West Virginia university, any
county board of education, the state department of edu-
cation or the teachers' retirement board, if such person
was formerly employed as a teacher in the public schools;
(k) All classroom teachers, principals, and educational
administrators in schools under the supervision of the
state board of control.
Members of the administrative staff of the public
schools" shall include deans of instruction, deans of men,
deans of women, and financial and administrative secre-
taries.
Members of the extension staff" of the public schools
shall include every agricultural agent, boys' and girls'
club agent, and every member of the agricultural exten-
sion staff whose work is not primarily stenographic, cler-
cial, or secretarial.
"Retirement system" shall mean the state teachers'
retirement system provided for in this article.
"Present teacher" shall mean any person who was a
teacher during either of the fiscal years ending in one thou-
sand nine hundred forty or one thousand nine hundred
forty-one, and whose membership in the retirement system created by this article has been continuous.

"New entrant" shall mean a member of the retirement system who is not eligible for a prior service pension under the provisions of this article.

"Total service" shall mean all service as a teacher or a member of the retirement system since last becoming a member and, in addition thereto, all his prior service.

"Prior Service" shall mean all service as a teacher completed prior to July first, one thousand nine hundred forty-one.

"Average final salary" shall mean the average annual salary earned as a teacher during the last fifteen years of prior service, or if prior service is less than fifteen years, the average annual salary for that period. If the records for determining each annual salary needed cannot reasonably be established by the retirement board, then the term shall mean the average annual salary of the teacher for years for which records are available.

"Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a
contributor and credited to his individual account in the teachers' accumulation fund.

"Regular interest" shall mean interest at three per cent compounded annually, or a higher earnable rate if approved by the retirement board.

"Refund interest" shall mean the interest on refunds of the accumulated contributions and deposits payable to former members, or to the beneficiaries of deceased members, as provided in this article. The rate for refund interest shall be the average annual rate of interest, calculated to one decimal place, earned on retirement board investments in effect at the end of the fiscal year for which the interest is due, according to the sworn statement of the fund custodian required by section nineteen of this article. In no case shall interest be paid on contributions received and withdrawn within the same year.

"Employer" shall mean the agency of and within the state which has employed or employs a member.

"Contributor" shall mean a member of the retirement system who has an account in the teachers' accumulation fund.
“Beneficiary” shall mean the recipient of annuity payments made under the retirement system.

“Earnable compensation” shall mean the full compensation actually received by members for service as teachers whether or not a part of such compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions.

“Annuities” shall mean the annual retirement payments for life granted beneficiaries in accordance with this article. All annuities shall be paid in twelve monthly payments in computing such monthly payments, fractions of a cent shall be deemed a cent. Such monthly payments shall cease with the payment for the month within which the beneficiary dies.

“Member” shall mean a member of the retirement system.

“Public schools” shall mean all publicly supported schools, including normal schools, colleges and universities in this state.

The masculine gender shall be construed so as to include the feminine.
Age in excess of seventy years shall be deemed to be seventy years.

Sec. 13. Membership in System.—The membership of the retirement system shall consist of the following:

(a) All persons employed as teachers at the time they become eligible for membership who, within a year after becoming eligible, notify the retirement board in writing of their decision to become members. Any such persons who fail to notify the board shall automatically be constituted members one year after they become eligible, unless the retirement board receives written notice from them declining membership in the system.

(b) New entrants, whose membership in the system shall be compulsory upon employment as teachers.

The membership of any person in the retirement system shall cease:

(1) Upon the withdrawal of his accumulated contributions after the cessation of teaching service, or (2) upon retirement, or (3) at death, or (4) if service amounts to less than five years in any period of ten consecutive years. For the purpose of subsection four, however, a
deposit by the member to his individual account in the
teachers' accumulation fund of an amount equalling his
last annual contribution shall be deemed the equivalent
of one year of service.

Any person in subsection (a) of this section who elects
to become a member after having declined to accept
membership, shall be permitted to enter the retirement
system, but shall be accorded only the rights of a new
entrant.

If any person resumes membership once it has ceased,
such member shall be accorded only the rights of a new
entrant.

Sec. 15. Collection of Member Contributions.—Each
employer shall compile a list of all members in its employ
and shall specify the amount of the contributions to be
made by such members for the ensuing school year. Such
data shall be filed with the retirement board.

The monthly payments, which members would receive
from employers as compensation for service in the ab-
sence of this article, shall be decreased by the amount of
the contribution due under this article. The amount of
such deductions shall be retained in the funds containing
the state appropriations to such employer, until such time
as the retirement board shall make appropriate requi-
sition therefor.

Each employer shall be held accountable for the sum
composing the contributions made by its member em-
ployees.

At the beginning of each fiscal year, the retirement
board shall make requisition upon the state auditor to
issue warrants for ninety per cent of the estimated mem-
bers' contributions for the year. The balance of such
moneys due and payable to the retirement board for such
year shall be requisitioned upon completion of employers'
certified reports of actual deductions for the fiscal year.
Such sums shall be paid to the retirement board from the
funds containing the state appropriations made to such
employers.

The retirement board shall send the sheriff and county
superintendent of each county a copy of the amount of
each requisition upon the state aid of the county. The
sheriff and the county superintendent shall record in their
accounts the total of such requisition as a receipt to the county's state aid fund, and as a disbursement to the teachers' accumulation fund of the retirement board.

Sec. 16. Payment of Employer Contributions; Transfer of Appropriations.—The aggregate of employer contributions due and payable under this article shall be paid from general fund appropriations for the retirement system.

At the beginning of the fiscal year for which the appropriation is made, the governor shall transfer the appropriation of the retirement board from the general treasury to the funds of the retirement board. The amount transferred to each fund shall be determined by the actuarial evaluation required by section twelve of this article.

Sec. 17. Statement and Computation of Teacher's Service.—Under such rules and regulations as the retirement board may adopt, each teacher shall file a detailed statement of his length of service as a teacher for which he claims credit. The retirement board shall determine what part of a year is the equivalent of a year of service. In computing such service, however, it shall
credit no period of more than a month's duration during
which a member was absent without pay, nor shall it
credit for more than one year service performed in any
calendar year.
For the purpose of this section the retirement board
shall grant prior service credit to new entrants and other
members of the retirement system for service in any of
the armed forces of the United States in any period of
national emergency within which a federal selective serv-
ice act was in effect. For purposes of this section, "armed
forces" shall include Women's Army Corps, Women's
Appointed Volunteers for Emergency Service, Army
Nurse Corps, Spars, Women's Reserve, and other similar
unit officially parts of the military service of the United
States. Such military service shall be deemed equivalent
to public school teaching, and the salary equivalent for
each year of such service shall be the actual salary of the
member as a teacher for his first year of teaching after
discharge from military service.
For service as a teacher in the employment of the
federal government, or a state or territory of the United
States, or a governmental subdivision of such state or territory the retirement board shall grant credit to the same extent and on the same conditions, if any, as a retirement system established for teachers in such employment would grant credit for service as a teacher in the public schools of West Virginia.

Subject to the above provisions, the board shall verify as soon as practicable the statements of service submitted. The retirement board shall issue prior service certificates to all persons eligible therefor under the provisions of this article. Such certificates shall state the length of such prior service credit.

Sec. 18. Funds Created; Uses and Purposes.—The funds created are the teachers' accumulation fund, the employers' accumulation fund, the benefit fund, the expense fund, and the reserve fund.

(a) The teachers' accumulation fund shall be the fund in which contributions from the compensation of members shall be accumulated. The accumulated contributions of a member returned to him upon his withdrawal, or paid to his estate or designated beneficiary in the event
of death, shall be paid from the teachers' accumulation fund. Any accumulated contributions forfeited by failure to claim such contributions shall be transferred from the teachers' accumulation fund to the reserve fund.

Any member shall be permitted to deposit in the teachers' accumulation fund such amounts in multiples of fifty dollars as he may desire.

(b) The employers' accumulation fund shall contain the contributions paid by employers. Upon the retirement of a member, the full amount of the employer's contributions shall be transferred from the employers' accumulation fund to the benefit fund.

(c) The benefit fund shall be the fund from which annuities shall be paid. Upon the retirement of a member, his accumulated contributions shall be transferred from the teachers' accumulation fund to the benefit fund; the accumulated employer's contributions shall be transferred from the employers' accumulation fund to the benefit fund; and annually a sum for prior service pension and disability credits, if any, shall be transferred from the reserve fund to the benefit fund.
(d) The retirement board is hereby authorized to accept gifts and bequests. Any fund that may come into possession of the retirement system in this manner or which may be transferred from the teachers' accumulation fund by reason of the lack of a claimant or because of a surplus in any of the funds; or any other moneys the disposition of which is not otherwise provided for shall be credited to the reserve fund. The retirement board shall allow interest on the contributions in the teachers' accumulation fund. Such interest shall be paid from the reserve fund and credited to the teachers' accumulation fund. Any deficit occurring in any fund which would not be automatically covered by the payments to that fund as otherwise provided by this article shall be met by payments from the reserve fund to such fund. In the reserve fund shall be accumulated moneys from retirement board appropriations to pay the accrued liabilities of the system, caused by the granting of prior service and disability pensions. Interest payments on board investments shall be credited to the reserve fund.

(c) The expense fund shall be the fund from which
shall be paid the expense incurred in the administration of the retirement system.

Sec. 25. Eligibility for Retirement Allowance.—Any member who has attained the age of sixty years or who has had thirty-five years of total service as a teacher in West Virginia, regardless of age, shall be eligible for an annuity. No new entrant nor present member shall be eligible for an annuity, however, if either has less than five years of service to his credit.

Any member who attains the age of sixty-five years shall retire from service as a teacher: Provided, If the employer shall so request in writing, the retirement board may permit the employment of such member beyond the age of sixty-five.

The request for an annuity shall be made by the member in writing to the retirement board, but in case of retirement for disability, the written request may be made by either the member or the employer.

A member shall be eligible for annuity for disability, if he satisfies the conditions in both (a) and (b) as follows:
(a) His service as a teacher in West Virginia must total
at least ten years, and service as a teacher must have
been terminated because of disability.

(b) An examination by a physician or physicians se-
lected by the retirement board must show that the mem-
ber is at the time mentally or physically incapacitated
for service as a teacher, that for such service the disability
is total and likely to be permanent, and that he should
be retired in consequence thereof.

Continuance of the disability of the retired teacher shall
be established by medical examinations, as prescribed in
the preceding paragraph, annually for five years after
retirement, and thereafter at such time as the retirement
board may require. Payment of the disability annuity
provided in this article shall cease immediately, if the
retirement board finds that the disability of the retired
teacher no longer exists, or if the retired teacher refuses
to submit to medical examination as required by this
section.

Sec. 26. Allowance upon Retirement.—Upon retirement,
a member shall be granted a retirement allowance consist-
ing of an annuity which shall be the sum of the following:

(a) The actuarial equivalent of the contributions and deposits of the member up to the time of his retirement, with regular interest.

(b) The actuarial equivalent of the contributions of the employer up to the time of the member's retirement, which shall equal the sum in subsection (a) of this section minus deposits with regular interest on deposits.

(c) Where prior service credit has been granted, an allowance of one and twenty-five hundredths per cent of the member's average final salary multiplied by the number of years of prior service credited to him.

(d) The actuarial equivalent of the amounts that would have accumulated under subsections (a) and (b) of this section, if the member had contributed to his individual account until he was fifty years old, at the annual rate of his past actual contributions, but this subsection shall apply only as additional income to members who qualify for disability retirement before they are fifty years old.

The disability annuities of all teachers retired for dis-
24 a competent actuary, approved by the retirement board.
25 For purposes of subsection (c):
26 (1) An allowance for prior service shall in no case
27 exceed one-half of the member's average final salary.
28 (2) Average final salary shall in no instance be deemed
29 to exceed the sum of two thousand five hundred dollars,
30 or to be less than seven hundred and twenty dollars.

Sec. 34. Loans to Members.—A member of the retire-
2 ment system upon written application may borrow from
3 his individual account in the teachers' accumulation fund,
4 subject to these restrictions:
5 (1) Loans shall be made in multiples of fifty dollars.
6 (2) Loans to any one member shall not exceed twice
7 his monthly salary, and shall not exceed one-half of his
8 contributions to his individual account in the teachers'
9 accumulation fund.
10 (3) No member shall be eligible for a loan who served
11 as a teacher thirty years or more, or who has reached the
12 age of fifty-five years.
13 (4) Interest charged on the amount of the loan shall
14 be six per cent per annum.
(5) If a refund or benefit is payable to the borrower before he repays the loan with interest, the balance due shall be deducted from the benefit or refund.

(6) From his monthly salary as a teacher the member shall pay the loan and interest by uniform deductions in even dollars which will pay the loan and interest in not more than sixteen nor less than six months. Upon notice of loan granted and payment due, the employer shall be responsible for making such salary deductions and reporting them to the retirement board. The deductions shall be collected as prescribed for the collections of member's contributions in this article. If the teacher decides to make the uniform monthly payments while not paid for service as a teacher, the retirement board must accept such payments.

The interest earned on such loans shall be deposited in the expense fund.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Charles C. Morris
Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect from passage

Homer Friar
Clerk of the Senate

Clerk of the House of Delegates

Ernest W. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 1st day of March, 1945.

Governor

Filed in the office of the Secretary of State of West Virginia MAR 15 1945
Wm. S. O'Brien, Secretary of State