

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945

ENROLLED

SENATE BILL No. 142

(By Mr. Hardesty and McKown)

PASSED March 9 1945

In Effect From Passage

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.



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(BY MESSRS. HARDESTY AND MCKOWN)

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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,

18 the board of governors of West Virginia university, any
19 county board of education, the state department of edu-
20 cation or the teachers' retirement board, if such person
21 was formerly employed as a teacher in the public schools;
22 (k) All classroom teachers, principals, and educational
23 administrators in schools under the supervision of the
24 state board of control.

25 "Members of the administrative staff of the public
26 schools" shall include deans of instruction, deans of men,
27 deans of women, and financial and administrative secre-
28 taries.

29 "Members of the extension staff" of the public schools
30 shall include every agricultural agent, boys' and girls'
31 club agent, and every member of the agricultural exten-
32 sion staff whose work is not primarily stenographic, cleri-
33 cal, or secretarial.

34 "Retirement system" shall mean the state teachers'
35 retirement system provided for in this article.

36 "Present teacher" shall mean any person who was a
37 teacher during either of the fiscal years ending in one thou-
38 sand nine hundred forty or one thousand nine hundred

39 forty-one, and whose membership in the retirement sys-
40 tem created by this article has been continuous.

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

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

47 "Prior Service" shall mean all service as a teacher com-
48 pleted prior to July first, one thousand nine hundred
49 forty-one.

50 "Average final salary" shall mean the average annual
51 salary earned as a teacher during the last fifteen years of
52 prior service, or if prior service is less than fifteen years,
53 the average annual salary for that period. If the records
54 for determining each annual salary needed cannot reason-
55 ably be established by the retirement board, then the term
56 shall mean the average annual salary of the teacher for
57 years for which records are available.

58 "Accumulated contributions" shall mean the sum of
59 all the amounts deducted from the compensation of a

60 contributor and credited to his individual account in the
61 teachers' accumulation fund.

62 "Regular interest" shall mean interest at three per cent
63 compounded annually, or a higher earnable rate if ap-
64 proved by the retirement board.

65 "Refund interest" shall mean the interest on refunds of
66 the accumulated contributions and deposits payable to
67 former members, or to the beneficiaries of deceased mem-
68 bers, as provided in this article. The rate for refund inter-
69 est shall be the average annual rate of interest, calculated
70 to one decimal place, earned on retirement board invest-
71 ments in effect at the end of the fiscal year for which the
72 interest is due, according to the sworn statement of the
73 fund custodian required by section nineteen of this article.
74 In no case shall interest be paid on contributions received
75 and withdrawn within the same year.

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

78 "Contributor" shall mean a member of the retirement
79 system who has an account in the teachers' accumulation
80 fund.

81 "Beneficiary" shall mean the recipient of annuity pay-
82 ments made under the retirement system.

83 "Earnable compensation" shall mean the full compen-
84 sation actually received by members for service as
85 teachers whether or not a part of such compensation is
86 received from other funds, federal or otherwise, than those
87 provided by the state or its subdivisions.

88 "Annuities" shall mean the annual retirement pay-
89 ments for life granted beneficiaries in accordance with
90 this article. All annuities shall be paid in twelve monthly
91 payments in computing such monthly payments, fractions
92 of a cent shall be deemed a cent. Such monthly payments
93 shall cease with the payment for the month within which
94 the beneficiary dies.

95 "Member" shall mean a member of the retirement
96 system.

97 "Public schools" shall mean all publicly supported
98 schools, including normal schools, colleges and universi-
99 ties in this state.

100 The masculine gender shall be construed so as to include
101 the feminine.

102 Age in excess of seventy years shall be deemed to be
103 seventy years.

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

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

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

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

15 (1) Upon the withdrawal of his accumulated contri-
16 butions after the cessation of teaching service, or (2)
17 upon retirement, or (3) at death, or (4) if service amounts
18 to less than five years in any period of ten consecutive
19 years. For the purpose of subsection four, however, a

20 deposit by the member to his individual account in the
21 teachers' accumulation fund of an amount equalling his
22 last annual contribution shall be deemed the equivalent
23 of one year of service.

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

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

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

6 The monthly payments, which members would receive
7 from employers as compensation for service in the ab-
8 sence of this article, shall be decreased by the amount of
9 the contribution due under this article. The amount of

10 such deductions shall be retained in the funds containing
11 the state appropriations to such employer, until such time
12 as the retirement board shall make appropriate requi-
13 sition therefor.

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

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

27 The retirement board shall send the sheriff and county
28 superintendent of each county a copy of the amount of
29 each requisition upon the state aid of the county. The
30 sheriff and the county superintendent shall record in their

31 accounts the total of such requisition as a receipt to the
32 county's state aid fund, and as a disbursement to the
33 teachers' accumulation fund of the retirement board.

Sec. 16. *Payment of Employer Contributions; Transfer*
2 *of Appropriations.*—The aggregate of employer contri-
3 butions due and payable under this article shall be paid
4 from general fund appropriations for the retirement
5 system.

6 At the beginning of the fiscal year for which the appro-
7 priation is made, the governor shall transfer the appropri-
8 ation of the retirement board from the general treasury
9 to the funds of the retirement board. The amount trans-
10 ferred to each fund shall be determined by the actuarial
11 evaluation required by section twelve of this article.

Sec. 17. *Statement and Computation of Teacher's*
2 *Service.*—Under such rules and regulations as the re-
3 tirement board may adopt, each teacher shall file a de-
4 tailed statement of his length of service as a teacher for
5 which he claims credit. The retirement board shall
6 determine what part of a year is the equivalent of a year
7 of service. In computing such service, however, it shall

8 credit no period of more than a month's duration during
9 which a member was absent without pay, nor shall it
10 credit for more than one year service performed in any
11 calendar year.

12 For the purpose of this section the retirement board
13 shall grant prior service credit to new entrants and other
14 members of the retirement system for service in any of
15 the armed forces of the United States in any period of
16 national emergency within which a federal selective serv-
17 ice act was in effect. For purposes of this section, "armed
18 forces" shall include Women's Army Corps, Women's
19 Appointed Volunteers for Emergency Service, Army
20 Nurse Corps, Spars, Women's Reserve, and other similar
21 unit officially parts of the military service of the United
22 States. Such military service shall be deemed equivalent
23 to public school teaching, and the salary equivalent for
24 each year of such service shall be the actual salary of the
25 member as a teacher for his first year of teaching after
26 discharge from military service.

27 For service as a teacher in the employment of the
28 federal government, or a state or territory of the United

29 States, or a governmental subdivision of such state or
30 territory the retirement board shall grant credit to the
31 same extent and on the same conditions, if any, as a re-
32 tirement system established for teachers in such employ-
33 ment would grant credit for service as a teacher in the
34 public schools of West Virginia.

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

Sec. 18. *Funds Created; Uses and Purposes.*—The funds
2 created are the teachers' accumulation fund, the em-
3 ployers' accumulation fund, the benefit fund, the expense
4 fund, and the reserve fund.

5 (a) The teachers' accumulation fund shall be the fund
6 in which contributions from the compensation of mem-
7 bers shall be accumulated. The accumulated contributions
8 of a member returned to him upon his withdrawal, or
9 paid to his estate or designated beneficiary in the event

10 of death, shall be paid from the teachers' accumulation
11 fund. Any accumulated contributions forfeited by failure
12 to claim such contributions shall be transferred from the
13 teachers' accumulation fund to the reserve fund.

14 Any member shall be permitted to deposit in the teach-
15 ers' accumulation fund such amounts in multiples of fifty
16 dollars as he may desire.

17 (b) The employers' accumulation fund shall contain
18 the contributions paid by employers. Upon the retire-
19 ment of a member, the full amount of the employer's
20 contributions shall be transferred from the employers'
21 accumulation fund to the benefit fund.

22 (c) The benefit fund shall be the fund from which an-
23 nualities shall be paid. Upon the retirement of a member,
24 his accumulated contributions shall be transferred from
25 the teachers' accumulation fund to the benefit fund; the
26 accumulated employer's contributions shall be transferred
27 from the employers' accumulation fund to the benefit
28 fund; and annually a sum for prior service pension and
29 disability credits, if any, shall be transferred from the
30 reserve fund to the benefit fund.

31 (d) The retirement board is hereby authorized to ac-
32 cept gifts and bequests. Any fund that may come into
33 possession of the retirement system in this manner or
34 which may be transferred from the teachers' accumula-
35 tion fund by reason of the lack of a claimant or because
36 of a surplus in any of the funds; or any other moneys the
37 disposition of which is not otherwise provided for shall
38 be credited to the reserve fund. The retirement board
39 shall allow interest on the contributions in the teachers'
40 accumulation fund. Such interest shall be paid from the
41 reserve fund and credited to the teachers' accumulation
42 fund. Any deficit occurring in any fund which would
43 not be automatically covered by the payments to that
44 fund as otherwise provided by this article shall be met
45 by payments from the reserve fund to such fund. In the
46 reserve fund shall be accumulated moneys from retire-
47 ment board appropriations to pay the accrued liabilities
48 of the system, caused by the granting of prior service and
49 disability pensions. Interest payments on board invest-
50 ments shall be credited to the reserve fund.

51 (c) The expense fund shall be the fund from which

52 shall be paid the expense incurred in the administration
53 of the retirement system.

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

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

13 The request for an annuity shall be made by the mem-
14 ber in writing to the retirement board, but in case of
15 retirement for disability, the written request may be
16 made by either the member or the employer.

17 A member shall be eligible for annuity for disability,
18 if he satisfies the conditions in both (a) and (b) as fol-
19 lows:

20 (a) His service as a teacher in West Virginia must total
21 at least ten years, and service as a teacher must have
22 been terminated because of disability.

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

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

Sec. 26. *Allowance upon Retirement.*—Upon retirement,
2 a member shall be granted a retirement allowance consist-

3 ing of an annuity which shall be the sum of the following:

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

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

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

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

22 The disability annuities of all teachers retired for dis-
23 ability shall be based upon a disability table prepared by

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.

15 (5) If a refund or benefit is payable to the borrower
16 before he repays the loan with interest, the balance due
17 shall be deducted from the benefit or refund.

18 (6) From his monthly salary as a teacher the member
19 shall pay the loan and interest by uniform deductions in
20 even dollars which will pay the loan and interest in not
21 more than sixteen nor less than six months. Upon notice
22 of loan granted and payment due, the employer shall be
23 responsible for making such salary deductions and re-
24 porting them to the retirement board. The deductions
25 shall be collected as prescribed for the collections of mem-
26 ber's contributions in this article. If the teacher decides
27 to make the uniform monthly payments while not paid
28 for service as a teacher, the retirement board must accept
29 such payments.

30 The interest earned on such loans shall be deposited in
31 the expense fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C Morris

Chairman Senate Committee

J. Adkins Jr.
Chairman House Committee

Originated in the *Senate*

Takes effect *From* passage

Howard Hayes
Clerk of the Senate

Stiff
Clerk of the House of Delegates

Amos W. Vickers
President of the Senate

John E. Cinos
Speaker House of Delegates

The within *Approved* this the *14th*
day of *March*, 1945.

Blasius H. ...
Governor.



Filed in the office of the Secretary of State
of West Virginia **MAR 15 1945**

Wm. S. O'BRIEN,
Secretary of State