AN ACT to amend and reenact sections three, five, thirteen-a, fourteen, twenty-three, twenty-four 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-five, 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, five, thirteen-a, fourteen, twenty-three, twenty-four, 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 section thirty-five, 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 education 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 secretaries.

"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 extension staff whose work is not primarily stenographic, clerical, 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 within the seven years beginning July first, one thousand nine hundred thirty-nine, and whose membership in the retirement system has been continuous.

"New entrant" shall mean a member of the retirement system who is not a present teacher.
“Present member” shall mean a present teacher who is a member of the retirement system.

“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 compen-
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...ation 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. 5. Membership of the Retirement Board.—The re-
retirement board shall consist of the following seven members: (a) The governor, who shall be ex-officio chairman; (b) the state superintendent of free schools; (c) the state director of the budget; (d) the state insurance commissioner; (e) and three members of the retirement system.

The teachers, who are now serving as board members, shall serve the terms for which they were elected by the members of the retirement system. The first and second elections held after the effective date of this section shall be for the four and five-year term respectively; thereafter, all elections shall be for six-year terms. The manner and mode of such election shall be determined by the retirement board. All elective terms shall begin on the first day of July.

Vacancies occurring in the terms of the elected membership of the retirement board shall be filled within sixty days for unexpired periods by the retirement board. If the retirement board does not fill such vacancy within sixty days, the chairman shall appoint a member of the retirement system to serve for the remainder of the unexpired term.
Before exercising any authority or performing any duties as a member of the retirement board, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article four of the constitution, the certificates whereof shall be filed with the secretary of state. A suitable office or offices for the use of the retirement board shall be provided by the board of public works without cost to the retirement board.

Sec. 13-a. Resumption of Service by Retired Teachers.—For the purpose of this section, reemployment of a former or retired teacher as a teacher shall in no way impair such teacher's eligibility for a prior service pension, or any other benefit provided by this article.

Retired teachers, who qualified for an annuity because of age or service, shall not receive prior service allowance from the retirement board when employed as a teacher and when regularly employed by the state of West Virginia. The payment of such allowance shall be discontinued on the first day of the month within which such employment begins, and shall be resumed on the first day of the month succeeding the month within which
such employment ceased. The annuity paid any such
teacher on first retirement resulting from the teachers'
allocation fund and the employers' accumulation fund
shall continue throughout the governmental service and
thereafter according to the option selected by the teacher
upon first retirement.
Retired teachers, who qualified for an annuity because
of disability, shall receive no further retirement pay-
ments, if the retirement board finds that the disability of
the teacher no longer exists; payment shall be discon-
tinued on the first day of the month within which such
finding is made. If such retired teacher returns to service
as a teacher, he shall contribute to the teachers' accumu-
lation fund as a member of the system. His prior service
eligibility, if any, shall not be impaired because of his
disability retirement. His accumulated contributions and
interest which were transferred to the benefit fund upon
his retirement shall be returned to his individual account
in the teachers' accumulation fund, minus retirement pay-
ments received which were not supported by such con-
tributions and interest. Upon subsequent retirement, he
shall receive credit for all of his contributory experience,
anything to the contrary in this article notwithstanding.
The retirement board is herewith authorized to require
of the retired teachers and their employers such reports
as it deems necessary to effectuate the provisions of this
section.

Sec. 14. Contributions by Members.—At the end of each
month, every member of the retirement system shall con-
tribute four per cent of his monthly earnable compensa-
tion to the teachers' accumulation fund, not to exceed one
hundred dollars per school year. In the calculation of the
contribution, a fraction of a cent shall be deemed to be
a cent. The contributions shall be deducted from the
salaries of the members as hereinafter prescribed, and
every member shall be deemed to have given his consent
to such deductions. No deductions, however, shall be
made from the earnable compensation of a teacher, who
retired because of age or service, and then resumed serv-
ice as a teacher.

Payment by an employer to a member of the sum speci-
fied in the employment contract minus the amount of the
employee's contributions shall be deemed to be a full dis-
charge of the employer's contractual obligation as to earn-
able compensation.

Upon request and payment of one dollar service fee
by contributor the retirement board shall send the con-
tributor a statement of his accumulated contributions.

Membership dues in annual or voluntary organizations
shall be disbursed from such service fees, or from interest
on member's loans, upon approval by the retirement
board, anything in this code to the contrary notwithstanding.

Each contributor shall file with the retirement board or
with the employer to be forwarded to the retirement
board an enrollment form showing the date of birth and
other data needed by the retirement board for the proper
operation of the retirement system. Upon notice from
the retirement board to employer that contributor has
failed to file such form as prescribed, the employer shall
withhold salary of contributor until needed form is filed
with the retirement board.

Sec. 23. Withdrawal and Death Benefits.—Benefits upon
death or upon withdrawal from service prior to retirement under the provisions of this article shall be payable as follows:

(a) Four months after a contributor quits service as a teacher, he shall, on demand, be paid his accumulated contributions plus refund interest up to the date of quitting service, if he is then no longer under contract, verbal or otherwise, to serve as a teacher; or

(b) If such contributor has completed twenty years of total service, he may elect to receive at retirement age an annuity which is the actuarial equivalent of his accumulated contributions plus the employer's contributions. Upon the death of a contributor, his accumulated contributions plus refund interest shall be paid to his estate or to such persons as he shall have nominated by written designation duly executed and filed with the retirement board.

Sec. 24. Disposition of Accumulated Contributions.—When a contributor ceases to be a member because of absence from service as a teacher, his accumulated contributions with refund interest up to the date of quitting
service shall be returned to him, or to his legal representative. Five years after cessation of membership, if the contributor or his legal representative cannot be found, his accumulated contributions with refund interest shall be forfeited to the retirement system and credited to the reserve fund.

Sec. 26. Allowance Upon Retirement.—Upon retirement, a member shall be granted 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 members 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 subsection (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 disability shall be based upon a disability table prepared by a competent actuary, approved by the retirement board.

For the purposes of subsection (c):

(1) An allowance for prior service shall in no case exceed one-half of the member's average final salary.

(2) Average final salary shall in no instance be deemed to exceed the sum of two thousand five hundred dollars, or to be less than nine hundred and sixty dollars.

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, and shall begin with the payment for
the month succeeding the month within which the annu-
uitant became eligible under this article for the annuity
granted; in no case, however, shall an annuitant, qualify-
ing for an annuity because of age or service, receive more
than four monthly payments which are retroactive after
board approval of annuity applications.

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

An annuity application shall be cancelled immediately,
if applicant dies before the retirement board approves
such application.

The provisions of this section shall apply to the com-
putation of all monthly allowances paid to beneficiaries
after the effective date hereof.

Sec. 35. Additional Coverage.—Nonteaching employees
shall mean all persons, except teachers, regularly em-
ployed for full time service by the following educational
4 agencies: (a) any county board of education, (b) the
5 state board of education, (c) the board of governors of
6 West Virginia University, (d) and the teachers' retire-
7 ment board.
8 Such nonteaching employees shall be entitled to all the
9 rights, privileges, and benefits provided for teachers by
10 this article, upon the same terms and conditions as are
11 herein prescribed for teachers.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. McNeal
Chairman Senate Committee

R. L. Matthews
Chairman House Committee

Originated in the House of Delegates

Takes effect, July 1, 1947

J. Howard Myers
Clerk of the Senate

Clerk of the House of Delegates

Arnold D. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within approved this the 13th day of __________, 1947.

Governor.

Filed in the Office of the Secretary of State of West Virginia, MAR 13, 1947.

WM. S. CAHAN, Secretary of State