

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



# ENROLLED

*Com. Sub. For*

HOUSE BILL No. 146

(By Mr. Com. on Education)



PASSED March 12, 1949

In Effect July 1, 1949 Passage



146

**ENROLLED**  
COMMITTEE SUBSTITUTE FOR  
**House Bill No. 146**

(Originating in the Committee on Education.)

---

[Passed March 12, 1949; in effect July 1, 1949.]

---

AN ACT to amend and reenact sections three, thirteen, fourteen, eighteen, twenty-three, twenty-five, twenty-six and thirty-four, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the benefits provided for members of the state teachers retirement system.

*Be it enacted by the Legislature of West Virginia:*

That sections three, thirteen, fourteen, eighteen, twenty-three, twenty-five, twenty-six and thirty-four, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 3. *Definitions.* — “Teacher” shall include the  
2 following persons, if regularly employed for at least half

3 time service: (a) Any person employed for instructional  
4 service in the public schools of West Virginia; (b) prin-  
5 cipals; (c) public school librarians; (d) county super-  
6 intendents of schools and assistant county superintend-  
7 ents of schools; (e) any county school attendance director  
8 holding a West Virginia teachers' certificate; (f) the ex-  
9 ecutive secretary of the retirement board; (g) members  
10 of the research, extension, administrative or library staffs  
11 of the public schools; (h) the state superintendent of  
12 schools, heads and assistant heads of the divisions under  
13 his supervision, or any other employee thereunder per-  
14 forming services of an educational nature; (i) employees  
15 of the state board of education who are performing serv-  
16 ices of an educational nature; (j) any person employed  
17 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, cler-  
33 ical, or secretarial.

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

36 "Present teacher" shall mean any person who was a  
37 teacher within the seven years beginning July first, one  
38 thousand nine hundred thirty-nine, and whose member-  
39 ship in the retirement system has been continuous.

40 "New entrant" shall mean a member of the retirement  
41 system who is not a present teacher.

42 "Present member" shall mean a present teacher who is  
43 a member of the retirement system.

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

48 "Prior service" shall mean all service as a teacher com-  
49 pleted prior to July first, one thousand nine hundred  
50 forty-one, and all service of a present member who was  
51 employed as a teacher, and did not contribute to retire-  
52 ment account because he was legally ineligible for mem-  
53 bership during such service.

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

63 "Accumulated contributions" shall mean the sum of all  
64 the amounts deducted from the compensation of a con-

65 tributor and credited to his individual account in the  
66 teachers accumulation fund.

67 “Regular interest” shall mean interest at three percent  
68 compounded annually, or a higher earnable rate if ap-  
69 proved by the retirement board.

70 “Refund interest” shall mean the interest on refunds  
71 of the accumulated contributions and deposits payable  
72 to former members or to the beneficiaries of deceased  
73 members, as provided in this article. The rate for refund  
74 interest shall be the average annual rate of interest, cal-  
75 culated to one decimal place, earned on retirement board  
76 investments in effect at the end of the fiscal year for which  
77 the interest is due, according to the sworn statement of  
78 the fund custodian required by section nineteen of this  
79 article.

80 “Employer” shall mean the agency of and within the  
81 state which has employed or employs a member.

82 “Contributor” shall mean a member of the retirement  
83 system who has an account in the teachers accumulation  
84 fund.

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

87 "Refund beneficiary" shall mean the estate of a deceased  
88 contributor, or such person as he shall have nominated  
89 as beneficiary of his contributions by written designation  
90 duly executed and filed with the retirement board.

91 "Earnable compensation" shall mean the full compen-  
92 sation actually received by members for service as teach-  
93 ers whether or not a part of such compensation is received  
94 from other funds, federal or otherwise, than those pro-  
95 vided by the state or its subdivisions. Allowances from  
96 employers for maintenance of members shall be deemed  
97 a part of earnable compensation of such members.

98 "Annuities" shall mean the annual retirement payments  
99 for life granted beneficiaries in accordance with this  
100 article.

101 "Member" shall mean a member of the retirement  
102 system.

103 "Public schools" shall mean all publicly supported  
104 schools, including normal schools, colleges, and universi-  
105 ties in this state.

106 "Deposit" shall mean a voluntary payment to his ac-  
107 count by a member.

108 The masculine gender shall be construed so as to in-  
109 clude the feminine.

110 Age in excess of seventy years shall be deemed to be  
111 seventy years.

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

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

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

14 The membership of any person in the retirement sys-  
15 tem shall cease:



16 (1) Upon the withdrawal of his accumulated contri-  
17 butions after the cessation of teaching service, or (2) upon  
18 retirement, or (3) at death, or (4) if service amounts to  
19 less than five years in any period of ten consecutive years.  
20 For the purpose of subsection four, however, a deposit  
21 by the member to his individual account in the teachers'  
22 accumulation fund of an amount equalling his last annual  
23 contributions shall be deemed the equivalent of one year  
24 of service: "*Provided, however, That if any person re-*  
25 *turning from service in the armed forces of the United*  
26 *States, who immediately prior to or immediately follow-*  
27 *ing his induction therein withdrew his accumulated con-*  
28 *tributions and within one year following his discharge*  
29 *from the armed forces reentered the teaching service,*  
30 *then upon petition duly certified setting forth the facts*  
31 *filed by him with the retirement board for reinstatement*  
32 *of membership in the retirement system and repayment*  
33 *of the accumulated contributions previously withdrawn*  
34 *together with interest at six percentum thereon, shall be*  
35 *reinstated in the retirement system"*.

36 Any former member of the retirement system who has

37 withdrawn his accumulated contributions but subsequent-  
 38 ly reenters the retirement system shall be permitted to  
 39 repay to the retirement fund the amount of the contri-  
 40 butions so withdrawn, together with interest at six per-  
 41 cent per annum, and shall be accorded all the rights to  
 42 prior service and experience as he held at the time of  
 43 withdrawal of such accumulated contributions.

44 Any person in subsection (2-a) of this section who elects  
 45 to become a member after having declined to accept mem-  
 46 bership, shall be permitted to enter the retirement sys-  
 47 tem, but shall be accorded only the rights of a new en-  
 48 trant, unless he deposits in the reserve fund twenty-five  
 49 dollars for each year of his prior service. After making  
 50 such a deposit, he shall be deemed a present teacher.

Sec. 14. *Contributions by Members.*—At the end of  
 2 each month, every member of the retirement system shall  
 3 contribute five per cent of his monthly earnable compen-  
 4 sation to his individual account in the teachers accumula-  
 5 tion fund; however, in no case shall such monthly con-  
 6 tributions exceed seventeen dollars, nor shall exceed an  
 7 annual contribution of one hundred fifty-three dollars.

8 In the calculation of the contribution, a fraction of a cent  
9 shall be deemed to be a cent. The contributions shall be  
10 deducted from the salaries of the members as hereinafter  
11 prescribed, and every member shall be deemed to have  
12 given his consent to such deductions. No deductions, how-  
13 ever, shall be made from the earnable compensation of  
14 the following: (a) any teacher who retired because of  
15 age or service, and then resumed service as a teacher,  
16 and (b) any member who is seventy years old or older.

17 Payment by an employer to a member of the sum speci-  
18 fied in the employment contract minus the amount of  
19 the employee's contributions shall be deemed to be a full  
20 discharge of the employer's contractual obligation as to  
21 earnable compensation. Upon request and payment of one  
22 dollar service fee by a contributor, the retirement board  
23 shall send the contributor a statement of his accumulated  
24 contributions.

25 Each contributor shall file with the retirement board  
26 or with the employer to be forwarded to the retirement  
27 board an enrollment form showing the date of birth and  
28 other data needed by the retirement board. Upon notice

29 from retirement board to employer that contributor has  
 30 failed to file such forms as prescribed, the employer shall  
 31 withhold salary of contributor until needed form is filed  
 32 with the retirement board.

Sec. 18. *Funds Created; Uses and Purposes.*—The funds  
 2 created are the teachers accumulation fund, the employ-  
 3 ers accumulation fund, the benefit fund, the reserve fund,  
 4 and the expense fund. Each fund shall constitute a sep-  
 5 arate trust.

6 (a) The teachers accumulation fund shall be the fund  
 7 in which the contributions of members shall be accumu-  
 8 lated. The accumulated contributions of a member re-  
 9 turned to him upon his withdrawal, or paid to his estate  
 10 or designated beneficiary in the event of death, shall be  
 11 paid from the teachers accumulation fund. Any accumu-  
 12 lated contributions forfeited by failure to claim such con-  
 13 tributions shall be transferred from the teachers accumu-  
 14 lation fund to the reserve fund.

15 Any member or any employer is hereby authorized and  
 16 shall be permitted to deposit in the teachers accumulation

17 fund for the account of any member any amounts in mul-  
18 tiples of fifty dollars.

19 (b) Contributions of employers, equalling annually the  
20 members' contributions, shall be accumulated in the em-  
21 ployers accumulation fund through state appropriations.  
22 Upon the retirement of a member, the employers' con-  
23 tributions shall be transferred from the employers accu-  
24 mulation fund to the benefit fund.

25 (c) The benefit fund shall be the fund from which  
26 annuities shall be paid. Upon the retirement of a mem-  
27 ber, his accumulated contributions shall be transferred  
28 from the teachers accumulation fund to the benefit fund;  
29 the accumulated employers' contribution shall be trans-  
30 ferred from the employers accumulation fund to the bene-  
31 fit fund; and annually a sum for prior service pension and  
32 disability credits, if needed, shall be transferred from the  
33 reserve fund to the benefit fund.

34 (d) The retirement board is hereby authorized to ac-  
35 cept gifts and bequests. Any funds that may come into  
36 possession of the retirement system in this manner or  
37 which may be transferred from the teachers accumulation

38 fund by reason of the lack of a claimant or because of a  
39 surplus in any of the funds; or any other moneys the dis-  
40 position of which is not otherwise provided for shall be  
41 credited to the reserve fund. The retirement board shall  
42 allow interest on the contributions in the teachers accu-  
43 mulation fund. Such interest shall be paid from the re-  
44 serve fund and credited to the teachers accumulation  
45 fund. Any deficit occurring in any fund which would not  
46 be automatically covered by the payments to that fund  
47 as otherwise provided by this article shall be met by trans-  
48 fers from the reserve fund to such fund. In the reserve  
49 fund shall be accumulated moneys from retirement board  
50 appropriations to pay the accrued liabilities of the system,  
51 caused by the granting of prior service and disability  
52 pensions. Costs associated with board investments such  
53 as premiums, accrued interest, and commissions, shall be  
54 paid from the reserve fund.

55 (e) The expense fund shall be the fund from which  
56 shall be paid the expense incurred in the administration  
57 of the retirement system. The retirement board is here-  
58 with authorized to pay, from the expense fund, member-

59 ship fees in such voluntary organizations as the National  
60 Council on Teacher Retirement, anything in this code to  
61 the contrary notwithstanding. Interest earned on loans to  
62 members shall be deposited in the expense fund. Interest  
63 on board investments shall be credited first to the ex-  
64 pense fund, but the total amount so credited in any one  
65 fiscal year shall not exceed two per cent of the total in-  
66 terest earned on investments during the previous fiscal  
67 year; remainder of annual interest earnings shall be cred-  
68 ited to the reserve fund.

69 The retirement board is herewith given sole authority  
70 to direct and approve the making of any and all fund  
71 transfers as provided herein, anything in this code to the  
72 contrary notwithstanding.

Sec. 23. *Withdrawal and Death Benefits.* — Benefits

2 upon death or upon withdrawal from service prior to re-  
3 tirement under the provisions of this article shall be as  
4 follows:

5 (a) Four months after a contributor was last paid  
6 for service as a teacher, he shall, on demand, be paid his  
7 accumulated contributions plus refund interest up to but

8 not including the date of his last contribution, if he is  
 9 then no longer under contract, verbal or otherwise, to  
 10 serve as a teacher; or

11 (b) If such contributor has completed twenty years  
 12 of total service he may elect to receive at retirement age  
 13 an annuity which is the actuarial equivalent of his accu-  
 14 mulated contributions plus the employer's contributions.

15 (c) Upon the death of a contributor, his accumulated  
 16 contributions plus refund interest up to and including  
 17 the year of his death shall be paid to his refund benefi-  
 18 ciary.

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 has attained the age of fifty-five years  
 9 and who has served thirty years as a teacher in West Vir-  
 10 ginia shall be eligible for an annuity, but such a member



11 who retires before attaining the age of sixty years shall  
12 receive ninety per cent of the prior service allowance  
13 which is otherwise provided by sub-section (c) of section  
14 twenty-six of this article.

15 Any member who attains the age of sixty-five years  
16 shall retire from service as a teacher: *Provided*, That if the  
17 employer shall so request in writing, the retirement board  
18 may permit the employment of each member beyond the  
19 age of sixty-five.

20 The request for any annuity shall be made by the mem-  
21 ber in writing to the retirement board, but in case of re-  
22 tirement for disability, the written request may be made  
23 by either the member or the employer.

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

27 (a) His service as a teacher in West Virginia must  
28 total at least ten years, and service as a teacher must  
29 have been terminated because of disability, which dis-  
30 ability must have caused absence from service for at least

31 six months before his application for disability annuity  
32 is approved.

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

39 Continuance of the disability of the retired teacher shall  
40 be established by medical examination, as prescribed in  
41 the preceding paragraph, annually for five years after re-  
42 tirement, and thereafter at such times as the retirement  
43 board may require. Payment of the disability annuity  
44 provided in this article shall cease immediately, if the  
45 retirement board finds that the disability of the retired  
46 teacher no longer exists, or if the retired teacher refuses  
47 to submit to medical examination as required by this  
48 section.

Sec. 26. *Allowance Upon Retirement.*—Upon establish-  
2 ment of eligibility for a retirement allowance, a member

3 shall be granted an annuity which shall be the sum of  
4 the following:

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

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

12 (c) Where prior service credit has been granted, an  
13 allowance of 1.5 per cent of the member's average final  
14 salary multiplied by the number of years of prior service  
15 credited to him.

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

24 The disability annuities of all teachers retired for dis-  
25 ability shall be based upon a disability table prepared by  
26 a competent actuary, approved by the retirement board.

27 For the purposes of subsection (c):

28 (1) An allowance for prior service shall in no case  
29 exceed three-fifths of the member's average final salary.

30 (a) Average final salary shall in no instance be deemed  
31 to exceed the sum of two thousand five hundred dollars,  
32 or to be less than twelve hundred dollars.

33 All annuities shall be paid in twelve monthly payments.

34 In computing such monthly payments, fractions of a cent  
35 shall be deemed a cent. Such monthly payments shall  
36 cease with the payment for the month within which the  
37 beneficiary dies, and shall begin with the payment for  
38 the month succeeding the month within which the annu-  
39 itant became eligible under this article for the annuity  
40 granted; in no case, however, shall an annuitant, qualify-  
41 ing for an annuity because of age or service, receive more  
42 than four monthly payments which are retroactive after  
43 the board receives application for annuity.

44 In case the retirement board receives data affecting the

45 approved annuity of a retired teacher, the annuity shall  
46 be changed in accordance with such data, the change  
47 being effective with the payment for the month within  
48 which the board received the new data.

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

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

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 ten dollars,  
6 the minimal loan being forty dollars and the maximum  
7 being five hundred dollars.

8 (2) Loans to any one member shall not exceed one-  
9 half of his contributions to his individual account in the  
10 teachers accumulation fund.

11 (3) Interest charged on the amount of the loan shall

12 be six per cent per annum, and minimal interest charge  
13 shall be for six months.

14 (4) No member shall be eligible for more than one  
15 loan in any one year, except in cases of accidents, illness  
16 requiring medical or hospital care for himself or a member  
17 of his immediate family.

18 (5) If a refund or benefit is payable to the borrower  
19 or his beneficiary before he repays the loan with interest,  
20 the balance due with interest to date shall be deducted  
21 from such benefit or refund.

22 (6) From his monthly salary as a teacher the member  
23 shall pay the loan and interest by deductions which will  
24 pay the loan and interest in not more than sixteen nor  
25 less than six months. Upon notice of loan granted and  
26 payment due, the employer shall be responsible for mak-  
27 ing such salary deductions and reporting them to the  
28 retirement board. At the option of the retirement board,  
29 loan deductions may be collected as prescribed herein for  
30 the collection of members' contribution, or may be col-  
31 lected through issuance of warrant by employer. If the  
32 borrower decides to make loan payments while not paid

33 for service as a teacher, the retirement board must accept

34 such payments.

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

Forest L. McMan  
Chairman Senate Committee

R. Matthews  
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1949 passage.

Howard Myers  
Clerk of the Senate

J. G. Shipp  
Clerk of the House of Delegates

T. Langston Hunter  
President of the Senate

W. E. Harrison  
Speaker House of Delegates

The within APPROVED this the 18TH  
day of MARCH, 1949.

Chas. L. Patton  
Governor



Filed in the Office of the Secretary of State  
of West Virginia MAR 18 1949  
D. PITT O'BRIEN,  
SECRETARY OF STATE