ENROLLED

Com. Sub. For

HOUSE BILL No. 146

(By Mr. Common Education)

PASSED March 12, 1949

In Effect July 1, 1949 Passage
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 re-enacted 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, his credit for prior service, if any.

“Prior service” shall mean all service as a teacher completed prior to July first, one thousand nine hundred forty-one, and all service of a present member who was employed as a teacher, and did not contribute to retirement account because he was legally ineligible for membership during such service.

“Average final salary” shall mean the average annual salary earned as a teacher during the last fifteen years of prior service, including military service, as provided herein, 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 con-
tributor and credited to his individual account in the teachers accumulation fund.

"Regular interest" shall mean interest at three percent 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.

"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.

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

“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. Allowances from employers for maintenance of members shall be deemed a part of earnable compensation of such members.

“Annuities” shall mean the annual retirement payments for life granted beneficiaries in accordance with this article.

“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.
"Deposit" shall mean a voluntary payment to his account by a member.

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, except new entrants, 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 the 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 contributions shall be deemed the equivalent of one year of service: "Provided, however, That if any person returning from service in the armed forces of the United States, who immediately prior to or immediately following his induction therein withdrew his accumulated contributions and within one year following his discharge from the armed forces reentered the teaching service, then upon petition duly certified setting forth the facts filed by him with the retirement board for reinstatement of membership in the retirement system and repayment of the accumulated contributions previously withdrawn together with interest at six percentum thereon, shall be reinstated in the retirement system".

Any former member of the retirement system who has
withdrawn his accumulated contributions but subsequently reenters the retirement system shall be permitted to repay to the retirement fund the amount of the contributions so withdrawn, together with interest at six percent per annum, and shall be accorded all the rights to prior service and experience as he held at the time of withdrawal of such accumulated contributions.

Any person in subsection (2-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, unless he deposits in the reserve fund twenty-five dollars for each year of his prior service. After making such a deposit, he shall be deemed a present teacher.

Sec. 14. Contributions by Members.—At the end of each month, every member of the retirement system shall contribute five per cent of his monthly earnable compensation to his individual account in the teachers accumulation fund; however, in no case shall such monthly contributions exceed seventeen dollars, nor shall exceed an annual contribution of one hundred fifty-three dollars.
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 the following: (a) any teacher who retired because of age or service, and then resumed service as a teacher, and (b) any member who is seventy years old or older. Payment by an employer to a member of the sum specified in the employment contract minus the amount of the employee's contributions shall be deemed to be a full discharge of the employer's contractual obligation as to earnable compensation. Upon request and payment of one dollar service fee by a contributor, the retirement board shall send the contributor a statement of his accumulated contributions.

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. Upon notice
Sec. 18. Funds Created; Uses and Purposes.—The funds created are the teachers accumulation fund, the employers accumulation fund, the benefit fund, the reserve fund, and the expense fund. Each fund shall constitute a separate trust.

(a) The teachers accumulation fund shall be the fund in which the contributions 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 or any employer is hereby authorized and shall be permitted to deposit in the teachers accumulation
17 fund for the account of any member any amounts in multi-
18iples of fifty dollars.
19 (b) Contributions of employers, equalling annually the
20 members' contributions, shall be accumulated in the em-
21ployers accumulation fund through state appropriations.
22 Upon the retirement of a member, the employers' con-
23tributions shall be transferred from the employers accu-
24mulation 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-
27ber, his accumulated contributions shall be transferred
28 from the teachers accumulation fund to the benefit fund;
29 the accumulated employers' contribution shall be trans-
30ferred from the employers accumulation fund to the bene-
31fit 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-
35cept gifts and bequests. Any funds that may come into
36possession of the retirement system in this manner or
37which 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 dis-
position 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 accu-
mulation fund. Such interest shall be paid from the re-
serve 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 trans-
fers 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. Costs associated with board investments such
as premiums, accrued interest, and commissions, shall be
paid from the reserve fund.

(e) The expense fund shall be the fund from which
shall be paid the expense incurred in the administration
of the retirement system. The retirement board is here-
with authorized to pay, from the expense fund, member-
ship fees in such voluntary organizations as the National Council on Teacher Retirement, anything in this code to the contrary notwithstanding. Interest earned on loans to members shall be deposited in the expense fund. Interest on board investments shall be credited first to the expense fund, but the total amount so credited in any one fiscal year shall not exceed two per cent of the total interest earned on investments during the previous fiscal year; remainder of annual interest earnings shall be credited to the reserve fund.

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

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 as follows:

(a) Four months after a contributor was last paid for service as a teacher, he shall, on demand, be paid his accumulated contributions plus refund interest up to but
not including the date of his last contribution, 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 accu-
mulated contributions plus the employer's contributions.
(c) Upon the death of a contributor, his accumulated
contributions plus refund interest up to and including
the year of his death shall be paid to his refund benefi-
ciary.

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 has attained the age of fifty-five years
and who has served thirty years as a teacher in West Vir-
ginia shall be eligible for an annuity, but such a member
who retires before attaining the age of sixty years shall receive ninety per cent of the prior service allowance which is otherwise provided by sub-section (c) of section twenty-six of this article.

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

The request for any 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, which disability must have caused absence from service for at least
six months before his application for disability annuity is approved.

(b) An examination by a physician or physicians selected by the retirement board must show that the member 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 examination, as prescribed in the preceding paragraph, annually for five years after retirement, and thereafter at such times 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 establishment of eligibility for a retirement allowance, 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 in his individual account 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 such deposits.

(c) Where prior service credit has been granted, an allowance of 1.5 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 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 three-fifths of the member’s average final salary.

(a) Average final salary shall in no instance be deemed to exceed the sum of two thousand five hundred dollars, or to be less than twelve hundred 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 annuitant became eligible under this article for the annuity granted; in no case, however, shall an annuitant, qualifying for an annuity because of age or service, receive more than four monthly payments which are retroactive after the board receives application for annuity.

In case the retirement board receives data affecting the
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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 the applicant dies before the retirement board approves such application.

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

Sec. 34. Loans to Members.—A member of the retirement system upon written application may borrow from his individual account in the teachers accumulation fund, subject to these restrictions:

(1) Loans shall be made in multiples of ten dollars, the minimal loan being forty dollars and the maximum being five hundred dollars.

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

(3) Interest charged on the amount of the loan shall
be six per cent per annum, and minimal interest charge shall be for six months.

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

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

(6) From his monthly salary as a teacher the member shall pay the loan and interest by deductions 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. At the option of the retirement board, loan deductions may be collected as prescribed herein for the collection of members' contribution, or may be collected through issuance of warrant by employer. If the borrower decides to make loan payments while not paid
for service as a teacher, the retirement board must accept such payments.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1949 passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor

Filed in the Office of the Secretary of State of West Virginia MAR 18 1949

D. Pitt O'Brien, Secretary of State