

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



ENROLLED

Committee Substitute for

HOUSE BILL No. 273

Originating in the Committee

(By Mr. on Education)



PASSED March 13, 1953

In Effect July 1, 1953 Passage



273

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COMMITTEE SUBSTITUTE FOR

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

Be it enacted by the Legislature of West Virginia:

That sections three, fourteen, fifteen, sixteen, seventeen 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 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;

5 (c) public school librarians; (d) county superintendents
6 of schools and assistant county superintendents of schools;
7 (e) any county school attendance director holding a
8 West Virginia teachers' certificate; (f) the executive
9 secretary of the retirement board; (g) members of the
10 research, extension, administrative or library staffs of the
11 public schools; (h) the state superintendent of schools,
12 heads and assistant heads of the divisions under his su-
13 pervision, or any other employee thereunder performing
14 services of an educational nature; (i) employees of the
15 state board of education who are performing services of
16 an educational nature; (j) any person employed in a non-
17 teaching capacity by the state board of education, the
18 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 class-room 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 sec-
28 retaries.

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,
33 clerical 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
37 a teacher within the seven years beginning July first,
38 one thousand nine hundred thirty-nine and whose mem-
39 bership in the retirement system has been continuous.

40 “New entrant” shall mean a teacher who is not a
41 present teacher.

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

44 “Total service” shall mean all service as a teacher
45 while a member of the retirement system since last be-

46 coming a member and, in addition thereto, his credit for
47 prior service, if any.

48 "Prior service" shall mean all service as a teacher
49 completed prior to July first, one thousand nine hun-
50 dred forty-one and all service of a present member
51 who was employed as a teacher, and did not contri-
52 bute to retirement account because he was legally in-
53 eligible for membership 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,
58 the average annual salary for that period. If the records
59 for determining each annual salary needed cannot rea-
60 sonably be established by the retirement board, then
61 the term shall mean the average annual salary of
62 the teacher for the years for which records are avail-
63 able.

64 "Accumulated contributions" shall mean all deposits
65 and all deductions from the earnable compensation of a

66 contributor minus the total of all supplemental fees de-
67 ducted from his compensation.

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

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

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

83 "Contributor" shall mean a member of the retirement
84 system who has an account in the teachers' accumulation
85 fund.

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

88 "Refund beneficiary" shall mean the estate of a de-
89 ceased contributor, or such person as he shall have nom-
90 inated as beneficiary of his contributions by written des-
91 ignation duly executed and filed with the retirement
92 board.

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

101 "Annuities" shall mean the annual retirement payments
102 or life rented beneficiaries in accordance with this article.

103 "Member" shall mean a member of the retirement sys-
104 tem.

105 "Public schools" shall mean all publicly supported

106 schools, including normal schools, colleges, and universi-
107 ties in this state.

108 "Deposit" shall mean a voluntary payment to his ac-
109 count by a member.

110 The masculine gender shall be construed so as to in-
111 clude the feminine.

112 Age in excess of seventy years shall be deemed to be
113 seventy years.

Section 14. *Contributions by Members.*—At the end of
2 each month, every member of the retirement system
3 shall contribute six per cent of his monthly earnable
4 compensation to the retirement board, but in no case
5 shall such contributions by any member exceed one hun-
6 dred eighty-four dollars in any fiscal year. Such con-
7 tributions shall be deemed to include the annual supple-
8 mentary fee of the contributor, determined as herein-
9 after provided, which fee shall be used to help finance
10 the additional retirement benefit provided for in sub-
11 section (e), section twenty-six of this article. Annually,
12 the contributions of each member, minus his supple-
13 mentary fee, shall be credited to his account in the teach-

14 ers' accumulation fund. The contributions shall be de-
15 ducted from the salaries of the members as herein pre-
16 scribed, and every member shall be deemed to have given
17 his consent to such deductions. No deductions, however,
18 shall be made from the earnable compensation of any
19 teacher who retired because of age or service, and then
20 resumed service as a teacher.

21 The retirement board shall each year determine to the
22 nearest dollar the amount of the supplementary fee to be
23 paid by each member, so that the sum of such fees paid
24 by all members shall be sufficient to defray one-half of
25 the cost of the retirement benefit provided for in sub-
26 section (e), section twenty-six of this article. The amount
27 so fixed shall not exceed twenty dollars, nor shall it in
28 any case exceed one per cent of the annual earnable
29 compensation of the member. All supplementary fees
30 shall be deposited in the benefit fund.

31 The aggregate of employer contributions, due and pay-
32 able under this article, shall equal annually the total de-
33 ductions from the earnable compensation of members
34 required by this section. All employer contributions

35 shall be credited to the employers' accumulation fund,
36 from which fund an amount equalling annually the sup-
37 plementary fees of members, shall be transferred to the
38 benefit fund. When a member withdraws or dies, the
39 employer's contributions for that member, equalling his
40 withdrawn contributions, shall be transferred to the re-
41 serve fund.

42 Payment by an employer to a member of the sum spec-
43 ified in the employment contract minus the amount of the
44 employee's contributions shall be deemed to be a full
45 discharge of the employer's contractual obligation as to
46 earnable compensation.

47 Each contributor shall file with the retirement board
48 or with the employer to be forwarded to the retirement
49 board an enrollment form showing his date of birth and
50 other data needed by the retirement board. Upon notice
51 from the retirement board to the employer that a con-
52 tributor has failed to file such form as prescribed, the
53 employer shall withhold the salary of the contributor
54 until the needed form is filed with the retirement board.

Sec. 15. *Collection of Membership Contributions.*—Each

2 employer shall each month deduct six per cent from the
3 salary of each employee who is a member of the retire-
4 ment system, in an amount not to exceed the amount
5 named in section fourteen of this article, and shall at the
6 end of each month remit to the retirement board the
7 amounts so deducted, and shall transmit therewith a list
8 of all new members employed and the name and number
9 of members transferring from another county. At such
10 times as the retirement board may deem advisable each
11 employer shall report to the retirement board the total
12 amount so deducted from the salary of each employee.
13 The monthly payments which members would receive
14 from employers as compensation for service in the ab-
15 sence of this article, shall be decreased by the amount
16 of the contribution due hereunder.

17 Each employer shall be held accountable for the sum
18 composing the contributions made by its member em-
19 ployees. Whenever any county board of education shall
20 fail to make timely remittance of the member contribu-
21 tions deducted as provided in this section, the board of
22 school finance shall, upon request of the retirement board,

23 deduct from the next allotment of state aid for schools
24 made to such county board, and shall transfer to the re-
25 tirement board, the amount so in default.

Sec. 16. *Transfer of Appropriations.*—The retirement
2 board, on receipt of contributions from teachers deducted
3 and remitted by employers as provided in the preceding
4 section, shall make requisition on the state auditor for
5 an amount equal to such contributions. On receipt of the
6 requisitions duly certified, the state auditor shall transfer
7 the amount so requisitioned from the general state rev-
8 enue fund to the employers' accumulation fund, such
9 transfers not to exceed the amount appropriated for the
10 employers' accumulation fund.

11 At the beginning of each quarter the governor shall
12 transfer to the benefit fund one-fourth of the annual
13 appropriation therefor.

Sec. 17. *Statement and Computation of Teacher's*
2 *Service.*—Under such rules and regulations as the retire-
3 ment board may adopt, each teacher shall file a detailed
4 statement of his length of service as a teacher for which
5 he claims credit. The retirement board shall determine

6 what part of a year is the equivalent of a year of service.
7 In computing such service, however, it shall credit no
8 period of more than a month's duration during which a
9 member was absent without pay, nor shall it credit for
10 more than one year service performed in any calendar
11 year.

12 For the purposes of this article 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
17 service act was in effect. For purposes of this section,
18 "armed forces" shall include women's army corps, wom-
19 en's appointed volunteers for emergency service, army
20 nurse corps, spars, women's reserve, and other similar
21 units 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. Prior service credit for

27 military service shall not exceed ten years for any one
28 member, nor shall it exceed twenty-five per cent of total
29 service at the time of retirement.

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

38 Subject to the above provisions, the board shall verify
39 as soon as practicable, the statements of service submit-
40 ted. The retirement board shall issue prior service cer-
41 tificates to all persons eligible therefor under the pro-
42 visions of this article. Such certificates shall state the
43 length of such prior service credit, but in no case shall
44 the prior service credit exceed forty years.

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 the
4 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 de-
12 posits.

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

17 (d) The actuarial equivalent of the amounts that
18 would have accumulated under subsections (a) and (b)
19 of this section, if the member had contributed to his in-
20 dividual account until he was fifty years old, at the annual
21 rate of his past actual contributions, but this subsection
22 shall apply only as additional income to members who

23 qualify for disability retirement before they are fifty
24 years old.

25 (e) Twelve dollars multiplied by his total service as
26 a teacher.

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

30 For the purposes of subsection (c):

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

33 (2) Average final salary for this purpose shall in no
34 case exceed two thousand five hundred dollars, nor shall
35 it be less than twelve hundred dollars.

36 All annuities shall be paid in twelve monthly pay-
37 ments. In computing such monthly payments, fractions
38 of a cent shall be deemed a cent. Such monthly pay-
39 ments shall cease with the payment for the month
40 within which the beneficiary dies, and shall begin with
41 the payment for the month succeeding the month within
42 which the annuitant became eligible under this article
43 for the annuity granted; in no case, however, shall an

44 annuitant qualifying for an annuity because of age or
45 service, receive more than four monthly payments which
46 are retroactive after the board receives his application
47 for annuity.

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

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

56 The provisions of this section shall apply to the compu-
57 tation of all monthly allowances paid to beneficiaries
58 after the effective date hereof.

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

F. J. M. Kenley
Chairman Senate Committee

C. H. Aubler
Chairman House Committee

Originated in the House of Delegates

Takes effect *July 1, 1953* passage.

Howard Myers
Clerk of the Senate

Joseph
Clerk of the House of Delegates

Ralph Bean
President of the Senate

W. E. Hanney
Speaker House of Delegates

The within *approved* this the *20th*
day of *March*, 1953.

William C. Marland
Governor



FILED IN THE OFFICE OF THE SECRETARY OF STATE
of West Virginia **MAR 20 1953**
D. PITT O'BRIEN,
SECRETARY OF STATE