ENROLLED

House Bill No. 343
(By Mr. Beneke and Mr. Adams)

[Passed March 11, 1955; in effect from passage.]

AN ACT to amend and reenact sections two, four, five, six, seven, eight and nine, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to employees retirement and benefit fund of municipal corporations having a population in excess of fifteen thousand.

Be it enacted by the Legislature of West Virginia:

That sections two, four, five, six, seven, eight and nine, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

Section 2. Definition.—For the purpose of this article:

2 (a) “Prior service credit” shall mean the number of years that the member has been in the service of the city prior to the effective date of the retirement and benefit fund.
(b) "Earned service credits" shall mean the number of years that the member has contributed to the retirement and benefit fund.

(c) "Total service credit" shall mean a total of all prior service credit and all earned service credit.

(d) "Fund" shall mean "the employees' retirement and benefit fund."

(e) "Board" shall mean the board of trustees of the employees' retirement and benefit fund.

(f) "Member" shall mean an eligible employee of the city, who is a member of the employees' retirement and benefit fund.

(g) "Total disability in line of duty" shall mean total and permanent disablement from performing any work for pay, whether for the municipality or other employer, that shall be caused by injury sustained in the course of the operations usual to his employment, and shall include all operations necessary, incident or appurtenant thereto, or connected therewith, whether such operations are conducted at the usual place of employment or elsewhere in
connection with or in relation to his usual and customary employment.

(h) The pronoun "he" means both masculine and feminine.

(i) "Mayor", which means the chief executive officer of the city.

(j) The term "actuarial equivalent" means an annuity of equal value to the accumulated contributions, annuity or benefit when computed upon the basis of the actuarial tables in use by the fund.

(k) "Salary" shall mean the amount earned by a member as an employee of a municipality, provided that the maximum amount of salary to be considered hereunder for purposes of contributions and in the computation of benefits, shall be four hundred dollars per month.

(l) "Average Salary" shall mean the highest annual average rate of salary earnable by a member during a period of five consecutive years within the total service of the member subject to a maximum amount of four hundred dollars per month.

Sec. 4. Employees Eligible for Participation in Fund.
Employees eligible for participation in the fund shall include all employees who are employed by the municipality on a permanent basis. The following employees, however, shall not be eligible for participation in the fund:

1. Appointive members of administrative boards and commissions, except employees of such boards and commissions;
2. Persons employed under contract for a definite period or for the performance of a particular, special service;
3. Employees serving on a part-time basis of less than one-half time;
4. Policemen and firemen who are now covered by a pension or relief fund;
5. Employees who are paid in part by the county, state or other governmental agency, and only in part by the municipality;
6. Employees who are past sixty years of age who entered the service of the city after the effective date of the retirement and benefit fund;
(7) Persons employed after the establishment date of the fund who are over fifty years of age.
In case of doubt, the board of trustees of the fund may make determination as to any person's eligibility to become a member of the fund.
All employees eligible for participation at the effective date of the fund shall become members of the fund, unless they file a written election not to become a member within thirty days after the effective date of the fund.

Sec. 5. Prior, Earned and Total Service Credits; Service Breaks.—(1) For prior service, each participating employee, on the effective date, shall be credited, as of such date, with a prior service credit equal to the period or periods of service that the member has rendered to the city prior to the effective date of the fund.
(2) Each member shall pay into the fund, six per cent of his salary up to four hundred dollars a month. Unless the members' percentage of contributions is changed as hereinafter provided, no member shall be required to contribute more than twenty-four dollars per month.
These contributions shall continue until such time as
the member has twenty-three years of earned service credit, he shall continue to contribute to the fund until he retires or until he has contributed to the fund for a period of twenty-three years, that is, has twenty-three years of "earned service credit." However, a member who has prior service credit shall be entitled to a full retirement payment when his prior service credit and his earned service credit totals twenty-three years of total service credit, if he has reached compulsory retirement age, or when he becomes so physically or mentally disabled as to render him unfit for the performance of the duties of the position he occupies.

Whenever it is found that the total contributions are more than necessary to adequately maintain the fund, upon recommendation of a reputable actuary, a proper reduction shall be made of an equal percentage from the contributions by the members and from the contributions by the municipality.

(3) In order to participate one hundred per cent in the retirement fund the member must have a total service credit of twenty-three years which may be composed of
either prior service credit or earned service credit, or both.

At retirement, because of having reached the compulsory retirement age, the member shall participate in the fund only to the extent of his total service.

A person who is employed by the municipality at the time of the effective date of the fund and becomes a member of the fund shall be entitled to prior service credit even though such prior service was not continuous.

A person who is not employed by the municipality at the time of the effective date of the fund, but who has been employed in the past shall be entitled to prior service credit if he returns to the service within two years from the date of his termination of service and becomes a member of the fund within such two-year period.

A member upon separation from the service without right to a retirement benefit shall be entitled to withdraw his contributions without interest. If such employee returns to the service of the municipality within two years and becomes a member of the fund, he shall be considered as a new employee and shall have lost all prior service credits unless he shall repay to the fund in cash
at the time of reemployment the amount of money which
he has withdrawn plus two per cent interest compounded
annually on said amount during the time he was separated
from the service.

If, however, the service breaks of such member is more
than two years, he shall not be entitled to any prior serv-
ice credits nor shall he be entitled to redeposit with-
drawals but he shall reenter the fund as a new member.

Sec. 6. Retirement Age and Benefits.—After the effec-
tive date of the fund any member of the fund who has
had at least twenty-three years service and has reached
the age of sixty years while in service may, at his option,
retire from the service of the city upon a retirement pay-
ment as hereinafter provided.

Retirement for all members of the fund shall be com-
pulsory at the age of sixty-five, subject to the following
conditions:

The employee may be permitted to continue in the
service if he so desires; if his services are still valuable
to the municipality.

Whether an employee's services are valuable at the
age of sixty-five shall be determined by the appointing officer of the municipality. If he determines that such services are valuable, his determination must be certified to the board for approval. If the board approves the employee may continue in the service of the municipality. The appointing officer shall annually certify to the board relative to the ability and competency of all employees over sixty-five years. A member of the fund upon retirement, shall be entitled to the following retirement payment;

A member with at least ten years of service credits, who has attained age sixty or over or who has become so physically or mentally disabled as to render him unfit for the performance of the duties of the position he occupies shall upon retirement be paid according to the following table:

<table>
<thead>
<tr>
<th>Total Service Credits</th>
<th>Retirement Payment</th>
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<tbody>
<tr>
<td>Twenty-three or more</td>
<td>Fifty per cent of average salary</td>
</tr>
<tr>
<td></td>
<td>Provided, That if a member has twenty-three years of total service credits he shall be entitled to a minimum retirement payment of one hundred dollars per month.</td>
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</tbody>
</table>
Twenty-two years of total service credits, forty-nine per cent of average salary.

Twenty-one years of total service credits, forty-eight per cent of average salary.

Twenty years of total service credits, forty-seven per cent of average salary.

Nineteen years of total service credits, forty-five per cent of average salary.

Eighteen years of total service credits, forty-three per cent of average salary.

Seventeen years of total service credits, forty-one per cent of average salary.

Sixteen years of total service credits, thirty-nine per cent of average salary.

Fifteen years of total service credits, thirty-six per cent of average salary.

Fourteen years of total service credits, thirty-three per cent of average salary.

Thirteen years of total service credits, thirty-one per cent of average salary.
Twelve years of total service credits, twenty-nine per cent of average salary.

Eleven years of total service credits, twenty-seven per cent of average salary.

Ten years of total service credits, twenty-five per cent of average salary.

Sec. 7. Disability Retirement Payments.—(1) If a member becomes disabled by bodily injury effected directly or independently of all other causes through accidental means while engaged in the course of his employment with the city and while in line of duty, and is totally disabled from performing any work for pay, whether for the municipality or other employer, he shall be entitled during the time of his disability to a retirement payment equal to fifty per cent of the rate of salary of the member at date of disability: Provided, That the minimum payment shall be one hundred dollars per month.

(2) If a member becomes disabled while an employee of the municipality after he has had at least ten years of total service credits, and before he has reached age sixty, but such disability is not incurred in the line of duty dur-
ing the course of his employment, he shall be entitled to
one-half of the benefit provided for service retirement
during the time of his disability: Provided, That he shall
be entitled to a minimum payment of twenty-five dollars
per month and a maximum payment of one hundred
dollars per month.

(3) When a member has reached the retirement age
or has become so physically or mentally disabled as to
render him unfit for the performance of the duties of the
position he occupies and who has less than ten years serv-
ice credits, he shall be entitled to an annuity which shall
be the actuarial equivalent of his total accumulation ac-
count at the time of his retirement.

(4) The board of trustees of the employees' retirement
and benefit fund may order a reexamination of members
of the fund receiving disability retirement payment and
if the disability no longer exists the payments shall be
discontinued.

Sec. 8. Death Benefits.—(1) A member who dies after
he has had ten or more years total service credits shall
be entitled, for a period not to exceed ten years, to a re-
(1) Retirement payment in accordance to the table contained in section six of this article. The payments shall be made to the person having an insurable interest in his life, as he shall nominate to the board. If the beneficiary is a widow, marriage shall have occurred at least one year prior to the death of the member in order that the widow may be eligible for a benefit under this paragraph.

Upon death of a member prior to the completion of ten years of total service, the designated beneficiary of the member, or the estate of the member, shall be entitled to a return of his total contributions to the fund, without interest.

(2) Death benefits after retirement shall be the same as death before retirement except a widow shall not be entitled to benefits unless she has been married to the member before the date of his retirement. Payment shall be made for the remaining period of ten years from the date of the member's retirement. If a widow of a member remarries, her retirement payments shall be terminated.

(3) If a member dies as a result of personal injury or disease arising out of and in the course of his employment
with the city, the surviving widow shall be entitled during her widowhood to a benefit equal to thirty-three and one third per cent of the final rate of salary of the member, subject to the maximum rate herein prescribed, but not to exceed one hundred and twenty-five dollars per month. In the event there be no widow, or if remarriage occurs before the youngest child attains age eighteen, each child shall be entitled to twenty per cent of the member's final rate of salary, subject to a total payment to all children of fifty per cent of salary, or one hundred twenty-five dollars per month, whichever is the lesser. If there be no widow or minor children, the dependent father and/or mother, as the board shall determine, shall each be entitled to one-sixth of the deceased employee's final salary, but the payment to either parent shall not exceed fifty dollars per month.

Sec. 9. Contributions by the Municipality.—The council or other governing body shall annually provide sufficient funds in the budget, on an actuarially funded basis, to take care of the estimated cost of the employees' retire-
ment and benefit fund over and above the amount contributed by the members.

The municipality shall also contribute not less than the amount contributed by the members of the fund, plus an amount required, at three per cent interest per annum, to amortize, over the remainder of the period of forty years following the effective date, the amount as of the beginning of such year, of the obligation for the prior service credits granted to the employees, and a sufficient amount to pay the cost of the administration of the fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 16 day of March, 1953.

[Signature]
Governor

Filed in the Office of the Secretary of State of West Virginia

[Signature]
Secretary of State