

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

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ENROLLED

HOUSE BILL No. 343

(By Mr. Beneke - Adams)

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PASSED Mar 11 1955

In Effect From Passage

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Filed in the Office of the Secretary of State
of West Virginia MAR 17 1955
D. PITTS O'BRIEN
SECRETARY OF STATE

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
- 3 that the member has been in the service of the city prior
- 4 to the effective date of the retirement and benefit fund.

5 (b) "Earned service credits" shall mean the number
6 of years that the member has contributed to the retirement
7 and benefit fund.

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

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

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

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

17 (g) "Total disability in line of duty" shall mean total
18 and permanent disablement from performing any work
19 for pay, whether for the municipality or other employer,
20 that shall be caused by injury sustained in the course of
21 the operations usual to his employment, and shall include
22 all operations necessary, incident or appurtenant thereto,
23 or connected therewith, whether such operations are con-
24 ducted at the usual place of employment or elsewhere in

25 connection with or in relation to his usual and customary
26 employment.

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

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

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

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

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

Sec. 4. *Employees Eligible for Participation in Fund.*

2 —Employees eligible for participation in the fund shall
3 include all employees who are employed by the municip-
4 ipality on a permanent basis. The following employees,
5 however, shall not be eligible for participation in the
6 fund:

7 (1) Appointive members of administrative boards and
8 commissions, except employees of such boards and com-
9 missions;

10 (2) Persons employed under contract for a definite
11 period or for the performance of a particular, special
12 service;

13 (3) Employees serving on a part-time basis of less than
14 one-half time;

15 (4) Policemen and firemen who are now covered by a
16 pension or relief fund;

17 (5) Employees who are paid in part by the county, state
18 or other governmental agency, and only in part by the
19 municipality;

20 (6) Employees who are past sixty years of age who
21 entered the service of the city after the effective date of
22 the retirement and benefit fund;

23 (7) Persons employed after the establishment date of
24 the fund who are over fifty years of age.

25 In case of doubt, the board of trustees of the fund may
26 make determination as to any person's eligibility to be-
27 come a member of the fund.

28 All employees eligible for participation at the effective
29 date of the fund shall become members of the fund, unless
30 they file a written election not to become a member with-
31 in thirty days after the effective date of the fund.

Sec. 5. *Prior, Earned and Total Service Credits; Serv-*
2 *ice Breaks.*—(1) For prior service, each participating
3 employee, on the effective date, shall be credited, as of
4 such date, with a prior service credit equal to the period
5 or periods of service that the member has rendered to
6 the city prior to the effective date of the fund.

7 (2) Each member shall pay into the fund, six per cent
8 of his salary up to four hundred dollars a month. Unless
9 the members' percentage of contributions is changed as
10 hereinafter provided, no member shall be required to con-
11 tribute more than twenty-four dollars per month.

12 These contributions shall continue until such time as

13 the member has twenty-three years of earned service
14 credit, he shall continue to contribute to the fund until
15 he retires or until he has contributed to the fund for a
16 period of twenty-three years, that is, has twenty-three
17 years of "earned service credit." However, a member
18 who has prior service credit shall be entitled to a full
19 retirement payment when his prior service credit and
20 his earned service credit totals twenty-three years of
21 total service credit, if he has reached compulsory retire-
22 ment age, or when he becomes so physically or mentally
23 disabled as to render him unfit for the performance of the
24 duties of the position he occupies.

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

31 (3) In order to participate one hundred per cent in the
32 retirement fund the member must have a total service
33 credit of twenty-three years which may be composed of

34 either prior service credit or earned service credit, or both.

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

38 A person who is employed by the municipality at the
39 time of the effective date of the fund and becomes a mem-
40 ber of the fund shall be entitled to prior service credit
41 even though such prior service was not continuous.

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

48 A member upon separation from the service without
49 right to a retirement benefit shall be entitled to with-
50 draw his contributions without interest. If such employee
51 returns to the service of the municipality within two
52 years and becomes a member of the fund, he shall be con-
53 sidered as a new employee and shall have lost all prior
54 service credits unless he shall repay to the fund in cash

55 at the time of reemployment the amount of money which
56 he has withdrawn plus two per cent interest compounded
57 annually on said amount during the time he was separated
58 from the service.

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

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

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

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

13 Whether an employee's services are valuable at the

14 age of sixty-five shall be determined by the appointing
15 officer of the municipality. If he determines that such
16 services are valuable, his determination must be certified
17 to the board for approval. If the board approves the
18 employee may continue in the service of the municipality.

19 The appointing officer shall annually certify to the board
20 relative to the ability and competency of all employees
21 over sixty-five years. A member of the fund upon retire-
22 ment, shall be entitled to the following retirement pay-
23 ment;

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

30 Twenty-three or more years of total service credits,
31 fifty per cent of average salary: *Provided*, That if a
32 member has twenty-three years of total service credits
33 he shall be entitled to a minimum retirement payment
34 of one hundred dollars per month.

35 Twenty-two years of total service credits, forty-nine
36 per cent of average salary.

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

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

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

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

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

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

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

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

53 Thirteen years of total service credits, thirty-one per
54 cent of average salary.

55 Twelve years of total service credits, twenty-nine per
56 cent of average salary.

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

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

Sec. 7. *Disability Retirement Payments.*—(1) If a
2 member becomes disabled by bodily injury effected di-
3 rectly or independently of all other causes through acci-
4 dental means while engaged in the course of his employ-
5 ment with the city and while in line of duty, and is totally
6 disabled from performing any work for pay, whether for
7 the municipality or other employer, he shall be entitled
8 during the time of his disability to a retirement payment
9 equal to fifty per cent of the rate of salary of the member
10 at date of disability: *Provided*, That the minimum pay-
11 ment shall be one hundred dollars per month.

12 (2) If a member becomes disabled while an employee
13 of the municipality after he has had at least ten years of
14 total service credits, and before he has reached age sixty,
15 but such disability is not incurred in the line of duty dur-

16 ing the course of his employment, he shall be entitled to
17 one-half of the benefit provided for service retirement
18 during the time of his disability: *Provided*, That he shall
19 be entitled to a minimum payment of twenty-five dollars
20 per month and a maximum payment of one hundred
21 dollars per month.

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

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

Sec. 8. *Death Benefits.*—(1) A member who dies after
2 he has had ten or more years total service credits shall
3 be entitled, for a period not to exceed ten years, to a re-

4 tirement payment in accordance to the table contained in
5 section six of this article. The payments shall be made to
6 the person having an insurable interest in his life, as he
7 shall nominate to the board. If the beneficiary is a widow,
8 marriage shall have occurred at least one year prior to the
9 death of the member in order that the widow may be
10 eligible for a benefit under this paragraph.

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

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

23 (3) If a member dies as a result of personal injury or
24 disease arising out of and in the course of his employment

25 with the city, the surviving widow shall be entitled dur-
26 ing her widowhood to a benefit equal to thirty-three and
27 one third per cent of the final rate of salary of the mem-
28 ber, subject to the maximum rate herein prescribed, but
29 not to exceed one hundred and twenty-five dollars per
30 month. In the event there be no widow, or if remarriage
31 occurs before the youngest child attains age eighteen,
32 each child shall be entitled to twenty per cent of the mem-
33 ber's final rate of salary, subject to a total payment to all
34 children of fifty per cent of salary, or one hundred twenty-
35 five dollars per month, whichever is the lesser. If there
36 be no widow or minor children, the dependent father and/
37 or mother, as the board shall determine, shall each be en-
38 titled to one-sixth of the deceased employee's final salary,
39 but the payment to either parent shall not exceed fifty
40 dollars per month.

Sec. 9. *Contributions by the Municipality.*—The coun-
2 cil or other governing body shall annually provide suf-
3 ficient funds in the budget, on an actuarially funded basis,
4 to take care of the estimated cost of the employees' retire-

5 ment and benefit fund over and above the amount con-
6 tributed by the members.

7 The municipality shall also contribute not less than the
8 amount contributed by the members of the fund, plus an
9 amount required, at three per cent interest per annum,
10 to amortize, over the remainder of the period of forty
11 years following the effective date, the amount as of the
12 beginning of such year, of the obligation for the prior
13 service credits granted to the employees, and a sufficient
14 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.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect from _____ passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor

Filed In the Office of the Secretary of State
of West Virginia MAR 17 1955

D. PITTS O'BRIEN
SECRETARY OF STATE