WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No. 217

(By Mr.

Passed February 19th, 1961

In Effect from Passage

Filed in Office of the Secretary of State
of West Virginia March 4, 1961

JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact sections six, six-a and twelve, article nine, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article by adding thereto a new section, designated section six-b, all relating to eligibility for and the payment of benefits under the retirement system for judges of courts of record, service and retirement of judges over sixty-five years of age, eligibility for and the payment of annuities to the widows of judges who qualify for retirement benefits under the retirement system for judges of courts of record, and refunds due judges of courts of record or their widows, as the case may be, from the judges' retirement fund.

Be it enacted by the Legislature of West Virginia:

That sections six, six-a, and twelve, article nine, chapter
fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article be further amended by adding thereto a new section, designated section six-b, all to read as follows:

Section 6. Eligibility for and Payment of Benefits.—

2 Except as otherwise provided in sections five, twelve and thirteen of this article, any person who is now serving, or who shall hereafter serve as a judge of any court of record of this state and shall have served as such judge for a period of not less than sixteen full years and shall have reached the age of sixty-five years, or who has served as judge of such court or of that court and other courts of record of the state for a period of sixteen full years or more (whether continuously or not and whether said service be entirely before or after this act shall become effective, or partly before and partly after said date, and whether or not said judge shall be in office on the date he shall become eligible to benefits hereunder), shall, upon a determination and certification of his eligibility as provided in section nine hereof, be paid from the fund annual retirement benefits, so long as he shall live,
in an amount equal to seventy-five per cent of the annual salary of the office from which he has retired based upon such salary of such office as such salary may be changed from time to time during the period of his retirement and the amount of his retirement benefits shall be based upon and be equal to seventy-five per cent of the highest annual salary of such office for any one calendar year during the period of his retirement, and shall be payable in monthly installments: Provided, That such retirement benefits shall be paid only after said judge has resigned as such or, for any reason other than his impeachment, his service as such has ended: And provided further, That the provisions of this article shall apply to those judges who were in office at the time it originally became effective, those who have since become judges, those who have retired under the provisions thereof, and those who shall hereafter serve as judges of the courts of record of this state.

In determining eligibility for the benefits provided by this section, any portion of the term of office of any judge of a court of record which shall have elapsed while such
39 judge was on active duty (including leaves, furloughs, 
40 and time consumed going to his place of duty and re-
41 turning to his place of residence after discharge or re-
42 lease from active duty) in the armed forces of the United 
43 States shall be considered as served: Provided, however, 
44 That any judge who enters active duty in the armed forces 
45 of the United States during his term of office and after 
46 the effective date of this article, shall during, or within 
47 one year after such military service, pay into the state 
48 treasury all contributions required by section four of this 
49 article, and, by reason of such military service not de-
50 ducted from his salary.

Sec. 6-a. Eligibility Benefits; Service and Retirement of 
2 Judges over Sixty-Five Years of Age.—Any judge of a 
3 court of record of this state, who shall have served for a 
4 period of not less than eight full years after attaining 
5 the age of sixty-five years and who shall have made pay-
6 ments into the judges' retirement fund as provided in this 
7 article for each month during which he served as such 
8 judge following the effective date of this section, shall be 
9 subject to all the applicable terms and provisions of this
article, not inconsistent with the provisions hereof, and shall receive retirement benefits in an amount equal to seventy-five per cent of the annual salary of the office from which he has retired based upon such salary of such office as such salary may be changed from time to time during the period of his retirement and the amount of his retirement benefits shall be based upon and be equal to seventy-five per cent of the highest annual salary of such office for any one calendar year during the period of his retirement, and shall be payable in monthly installments. If such judge shall become incapacitated to perform his said duties before the expiration of his said term and after serving for six years thereof, and upon the acceptance of his resignation as in this article provided, he shall be paid the annual retirement benefits as herein provided so long as he shall live. The provisions of this section shall prevail over any language to the contrary in this article contained.

Sec. 6-b. Annuities for the Widows of those Judges

Eligible for Retirement Benefits; Amount and Payment of Same.—There shall be paid, from the fund created by
section two of this article, an annuity to the widow of a judge, who, at death, is eligible for the retirement benefits provided by section six or six-a of this article, and who dies, either while in office or after resignation or retirement from office pursuant to the provisions of this article:

Provided, however, That any annuity accruing under this section shall be paid from, and only from, the fund, and the interest thereon, accumulated through the contributions of judges from whose salary deductions have been made, as herein provided, and no annuity accruing hereunder shall be paid from any public moneys contributed to the Judges’ Retirement Fund by the State of West Virginia.

Said annuity shall amount to forty per cent of the annual salary of the office which said judge held at his death or from which he resigned or retired. In the event said salary is increased or decreased while an annuitant is receiving the benefits hereunder, her annuity shall amount to forty per cent of the new salary. The annuity granted hereunder shall accrue monthly and shall be due and payable in monthly installments on the first business
day of the month following the month for which the annuity shall have accrued. Such annuity shall com-
mence on the first day of the month in which said judge dies and shall terminate upon the death or remarriage of the annuitant.

Sec. 12. Refunds.—Any judge of a court of record of this state whose services have terminated, otherwise than by retirement under provisions of this article, shall, upon his written demand, or the written demand of his personal representative, filed with the state auditor, by a proper warrant of the state auditor drawn on the fund, be refunded, without interest, any and all money paid by or for said judge into the fund. Such repayment shall terminate all rights of said judge to participate thereafter at any time in the benefits and pay of the retirement system, without prejudice, however, to his right to reenter the system after a subsequent appointment or election to a qualified judgeship, but without credit for any prior years of service: Provided, however, That, should a retired judge die, without leaving a widow surviving, while receiving retirement benefits under the provisions of this
article, and before he has received from the Judges' Retirement Fund an amount equal to, or in excess of, sums paid by him into such fund, or should the widow, as defined by section six-b of this article, who is entitled to an annuity under the provisions of section six-b die or remarry while receiving annuity benefits, and before she and her husband have received from the Judges' Retirement Fund an amount equal to, or in excess of, sums contributed by him to such fund, then, and in either of these events, the state auditor shall, upon the written demand of the personal representative of the judge or widow, as the case may be, filed with the state auditor, by a proper warrant drawn on the fund, refund, without interest, to the estate of such judge or such widow, as the case may be, an amount equal to the difference between the sums contributed to the fund by or for such judge and the amount of such retirement benefits and annuities paid to him and his widow.
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.

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 fourth day of March, 1961.

[Signature]
Governor