

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 206

(By Mr. Carson, McPresident)

PASSED March 4th 1961

In Effect thirty days from Passage

Filed in Office of the Secretary of State
of West Virginia March 11, 1961
JOE F. BURDETT
SECRETARY OF STATE

206

ENROLLED

Senate Bill No. 206

(By MR. CARSON, MR. PRESIDENT)

[Passed March 7, 1961; in effect ninety days from passage.]

AN ACT to amend chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article designated article two-a, authorizing and directing the director of the West Virginia department of employment security to establish a retirement system for the employees thereof, subject to certain conditions.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article designated article two-a, to read as follows:

Section 1. *Establishment of Retirement System.*—The
2 director of the West Virginia department of employment
3 security is hereby authorized, empowered, and directed
4 to establish a retirement system for the employees there-
5 of, effective July one, one thousand nine hundred sixty-
6 one, to be known and designated as the West Virginia
7 department of employment security retirement system,
8 but subject to the terms and conditions of this article.

Sec. 2. *Restrictions.*—The retirement system so author-
2 ized and directed to be established shall be subject to the
3 following terms and conditions:
4 (a) The funds for the operation of such system shall
5 be provided from contributions of the employees who
6 become members thereof, and from funds provided by
7 the United States department of labor, bureau of employ-
8 ment security. The state of West Virginia shall not be
9 liable for any of the benefits set forth in said retirement
10 system nor for any funds required to provide such
11 benefits.

12 (b) The provisions of the retirement system shall
13 comply with all the conditions and requirements of the

14 bureau of employment security, United States depart-
15 ment of labor.

16 (c) Said retirement system shall commence operation
17 on July one, one thousand nine hundred sixty-one, or
18 thereafter: *Provided however*, That the bureau of em-
19 ployment security, United States department of labor,
20 shall prior to the date of commencement have approved
21 the provisions of said system and shall have agreed to
22 provide such funds as may be required of it for the said
23 system under the terms and provisions thereof. For the
24 purpose of computing benefits payable under said system,
25 credit may be granted on account of service rendered to
26 the West Virginia department of employment security
27 prior to July one, one thousand nine hundred sixty-one,
28 in addition to credit allowed for such service rendered
29 thereafter.

30 (d) The general administration and the management
31 of said system shall be invested in a retirement board,
32 to be composed of five members as follows: The governor
33 of the state of West Virginia, who shall be ex officio chair-
34 man; the state auditor; the state treasurer; the director

35 of the West Virginia department of employment security;
36 and one member of the state advisory council of the de-
37 partment of employment security, who shall be desig-
38 nated by the governor. The retirement board shall have
39 the right to sue and be sued, plead and be impleaded,
40 contract and be contracted with and shall make all neces-
41 sary rules, consistent with this article and the provisions
42 of the said retirement system, for the proper adminis-
43 tration thereof.

44 (e) The state treasurer shall be the custodian of the
45 funds and securities of said system. The members of the
46 retirement board, or one or more members thereof, if
47 authorized to do so by resolution of said board, shall have
48 authority to requisition for disbursements from said
49 funds. Disbursements from the funds of said system shall
50 be made by the custodian only upon warrants signed by
51 the state auditor and the state treasurer. The state treas-
52 urer shall give a separate and additional bond in such
53 amount as may be fixed by the governor for the faithful
54 performance of the duties as custodian of the retirement
55 system. Such bond shall be approved by the governor

56 and filed in the same office as are the bonds of other state
57 officers. The custodian shall furnish annually to the re-
58 tirement board a sworn statement of the funds in his
59 custody belonging to said retirement system.

60 (f) The members of the retirement board shall be the
61 trustees of the funds of said retirement system, and shall
62 determine from time to time what part of said funds shall
63 be invested, but such investments shall be made only in
64 those securities which are legal for investments by life
65 insurance companies domiciled in West Virginia.

66 (g) The state auditor shall periodically review the
67 records maintained by said retirement system and shall
68 submit to the retirement board a written report setting
69 forth the results of such review.

70 (h) The retirement board shall employ a competent
71 actuary to prepare annual actuarial valuations of the
72 contingent assets and liabilities of said system and to
73 certify the contributions he would recommend be made
74 in order that said system shall at all times be on a sound
75 actuarial basis.

76 (i) The funds of said retirement system shall be used

77 only for the benefit of employees who are members
78 thereof, and their beneficiaries, in accordance with the
79 terms and provisions of said system.

Sec. 3. *Covered Employees.*—Employees covered by
2 the retirement system shall include all employees (other
3 than provisional, temporary, emergency, and intermittent
4 employees) who are in employee status with the West
5 Virginia department of employment security on or after
6 the effective date of the retirement system.

Sec. 4. *Payroll Deductions for Employees of the West
2 Virginia Department of Employment Security Partici-
3 pating in the Retirement System.*—Whenever any em-
4 ployee of the West Virginia department of employment
5 security shall become eligible to participate in the retire-
6 ment system, the director shall have power and authority
7 to authorize participation in such plan and the director
8 shall make periodic deductions from salary payments due
9 such employee of the amount of the contributions such
10 employee is required to make for his participation in the
11 retirement system. Upon proper requisition of the di-
12 rector, the auditor shall periodically issue a warrant pay-

13 able as specified in the requisition, for the total contribu-
14 tions so withheld from the salaries of the employees par-
15 ticipating in said retirement system. To promote efficiency
16 and economy in making deductions and issuing warrants
17 as provided herein, the auditor is authorized to promul-
18 gate rules and regulations specifying the form and the
19 time and manner of presentation of requisitions issued
20 pursuant to this section.

Sec. 5. *Exemption from Levy, Garnishment, and Other*
2 *Process.*—The moneys in the retirement fund and the
3 right of a member to a retirement allowance, to the return
4 of contributions, or to any benefit under the provisions of
5 this article, shall not be subject to execution, garnishment,
6 attachment or any other process whatsoever.

Sec. 6. *Protection Against Fraud, Penalties.*—Any per-
2 son who knowingly makes any false statement or who
3 shall falsify or permit to be falsified any record or records
4 of said retirement system in any attempt to defraud said
5 system shall be guilty of a misdemeanor and, upon con-
6 viction, shall be punished by a fine of not exceeding one

7 thousand dollars, or imprisonment not exceeding one
8 year, or both.

Sec. 7. *Inconsistent Acts Repealed.*—All previous acts
2 or parts of acts inconsistent with this act are hereby re-
3 pealed.

Sec. 8. *Constitutionality.*—If any part of this act is de-
2 clared unconstitutional, it shall not affect any portion
3 which remains, but the remaining parts of the act shall be
4 in full force and effect as if the parts declared unconstitu-
5 tional had never been a part of this act.

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

Howard Davis, 2^d
Chairman Senate Committee

Mrs. H. H. Withrow
Chairman House Committee

Originated in the Senate.

Takes effect *ninety days from* passage.
Howard Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard Mason
President of the Senate

Julius W. Singleton, Jr.
Speaker House of Delegates

The within *approved* this the *eleventh*
day of *March*, 1961.

Tom Barron
Governor