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 director of the West Virginia department of employment security is hereby authorized, empowered, and directed to establish a retirement system for the employees thereof, effective July one, one thousand nine hundred sixty-one, to be known and designated as the West Virginia department of employment security retirement system, but subject to the terms and conditions of this article.

Sec. 2. Restrictions.—The retirement system so authorized and directed to be established shall be subject to the following terms and conditions:

(a) The funds for the operation of such system shall be provided from contributions of the employees who become members thereof, and from funds provided by the United States department of labor, bureau of employment security. The state of West Virginia shall not be liable for any of the benefits set forth in said retirement system nor for any funds required to provide such benefits.

(b) The provisions of the retirement system shall comply with all the conditions and requirements of the
(c) Said retirement system shall commence operation on July one, one thousand nine hundred sixty-one, or thereafter: Provided however, That the bureau of employment security, United States department of labor, shall prior to the date of commencement have approved the provisions of said system and shall have agreed to provide such funds as may be required of it for the said system under the terms and provisions thereof. For the purpose of computing benefits payable under said system, credit may be granted on account of service rendered to the West Virginia department of employment security prior to July one, one thousand nine hundred sixty-one, in addition to credit allowed for such service rendered thereafter.

(d) The general administration and the management of said system shall be invested in a retirement board, to be composed of five members as follows: The governor of the state of West Virginia, who shall be ex officio chairman; the state auditor; the state treasurer; the director
of the West Virginia department of employment security;
and one member of the state advisory council of the de-
partment of employment security, who shall be desig-
nated by the governor. The retirement board shall have
the right to sue and be sued, plead and be impleaded,
contract and be contracted with and shall make all neces-
sary rules, consistent with this article and the provisions
of the said retirement system, for the proper adminis-
tration thereof.

(e) The state treasurer shall be the custodian of the
funds and securities of said system. The members of the
retirement board, or one or more members thereof, if
authorized to do so by resolution of said board, shall have
authority to requisition for disbursements from said
funds. Disbursements from the funds of said system shall
be made by the custodian only upon warrants signed by
the state auditor and the state treasurer. The state treas-
urer shall give a separate and additional bond in such
amount as may be fixed by the governor for the faithful
performance of the duties as custodian of the retirement
system. Such bond shall be approved by the governor
and filed in the same office as are the bonds of other state officers. The custodian shall furnish annually to the retirement board a sworn statement of the funds in his custody belonging to said retirement system.

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

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

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

(i) The funds of said retirement system shall be used
only for the benefit of employees who are members thereof, and their beneficiaries, in accordance with the terms and provisions of said system.

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

Sec. 4. Payroll Deductions for Employees of the West Virginia Department of Employment Security Participating in the Retirement System.—Whenever any employee of the West Virginia department of employment security shall become eligible to participate in the retirement system, the director shall have power and authority to authorize participation in such plan and the director shall make periodic deductions from salary payments due such employee of the amount of the contributions such employee is required to make for his participation in the retirement system. Upon proper requisition of the director, the auditor shall periodically issue a warrant pay-
able as specified in the requisition, for the total contributions so withheld from the salaries of the employees participating in said retirement system. To promote efficiency and economy in making deductions and issuing warrants as provided herein, the auditor is authorized to promulgate rules and regulations specifying the form and the time and manner of presentation of requisitions issued pursuant to this section.

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

Sec. 6. Protection Against Fraud, Penalties.—Any person who knowingly makes any false statement or who shall falsify or permit to be falsified any record or records of said retirement system in any attempt to defraud said system shall be guilty of a misdemeanor and, upon conviction, 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.

Chairman Senate Committee

Chairman House Committee

-Originated in the Senate.

Takes effect ninety days 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 eleventh day of March, 1961.

Governor