WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 
(By Mr. 

PASSED ___________________________ 1961

In Effect ___________________________ Passage
AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article designated article nine, relating to a contributing retirement system for persons in the employ of the state and affiliated political subdivisions of the state.

Be it enacted by the Legislature of West Virginia:

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

Article 9. West Virginia Public Employees Retirement Act.

Section 1. Short Title.—The short title by which this
article nine may be referred to is: West Virginia public employees retirement act.

Sec. 2. Definitions.—The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "State" means the state of West Virginia;
(2) "Retirement system" or "system" means the West Virginia public employees retirement system created and established by this article;
(3) "Board of Trustees" or "Board" means the board of trustees of the West Virginia public employees retirement system;
(4) "Political subdivision" means the state of West Virginia, a county, city or town in the state; a school corporation or corporate unit; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose juris-
diction is co-extensive with one or more counties, cities or
towns;

(5) "Participating public employer" means the state
of West Virginia, any board, commission, department, in-
stitution or spending unit; and any political subdivision
in the state which has elected to cover its employees, as
defined in this article, under the West Virginia public
employees retirement system.

(6) "Employee" means any person who serves regu-
larly as an officer or employee, full time, on a salary basis,
whose tenure is not restricted as to temporary or pro-
visional appointment, in the service of, and whose com-
pensation is payable in whole or in part by any political
subdivision, or an officer or employee whose compensation
is calculated on a daily basis and paid monthly or on com-
pletion of assignment, including technicians and other
personnel employed by the West Virginia national guard
whose compensation in whole or in part is paid by the
federal government: Provided, That members of the state
legislature and members of the legislative body of any
other political subdivision shall be considered to be em-
ployees, anything contained herein to the contrary not-
withstanding. In any case of doubt as to who is an em-
ployee within the meaning of this article the board of
trustees shall decide the question;

(7) "Member" means any person who is included in
the membership of the retirement system;

(8) "Retirant" means any member who retires with an
annuity payable by the retirement system;

(9) "Beneficiary" means any person, except a retirant,
who is entitled to, or will be entitled to, an annuity or
other benefit payable by the retirement system;

(10) "Service" means personal service rendered to a
participating public employer by an employee, as defined
in this article, of a participating public employer;

(11) "Prior service" means service rendered prior to
July one, one thousand nine hundred sixty-one, to the
extent credited a member as provided in this article;

(12) "Contributing service" means service rendered
by a member from and after the date of his entrance in
the retirement system, to the extent credited him as pro-
vided in this article;
"Credited service" means the sum of a member’s prior service credit and contributing service credit standing to his credit as provided in this article;

(14) “Compensation” means the remuneration paid a member by a participating public employer for personal services rendered by him to the participating public employer. In the event a member’s remuneration is not all paid in money his participating public employer shall fix the value of the portion of his remuneration which is not paid in money;

(15) “Final average salary” means the average of the highest annual compensations received by a member during any period of five consecutive years of his credited service contained within his ten years of credited service immediately preceding the date his employment with a participating public employer last terminated. If he has less than five years of credited service his final average salary shall be the average of the annual rate of compensations received by him during his total years of credited service;

(16) “Accumulated contributions” means the sum of
all amounts deducted from the compensations of a member and credited to his individual account in the members deposit fund, together with regular interest thereon;

(17) "Regular interest" means such rate or rates of interest per annum, compounded annually, as the board of trustees shall from time to time adopt;

(18) "Annuity" means an annual amount payable by the retirement system throughout the life of a person. All annuities shall be paid in equal monthly installments, using the upper cent for any fraction of a cent;

(19) "Annuity reserve" means the present value computed upon the basis of such mortality and other tables of experience, and regular interest, as the board of trustees shall from time to time adopt;

(20) "Retirement" means a member's withdrawal from the employ of a participating public employer with an annuity payable by the retirement system;

(21) "Actuarial equivalent" means a benefit of equal value computed upon the basis of such mortality table and regular interest as the board of trustees shall from time to time adopt;
The masculine gender shall include the feminine gender, and words of the singular number with respect to persons shall include the plural number, and vice-versa.

Sec. 3. Retirement System Created and Established; Effective Date.—The West Virginia public employees retirement system is hereby created and established to provide for the orderly retirements of employees, of the state and the other participating public employers, who become superannuated because of age or total and permanent disability, and to provide certain survivor benefits. The retirement system shall constitute a body corporate. All business of the system shall be transacted in the name of West Virginia public employees retirement system.

Sec. 3-a. Retirement Plan Not a Substitute for Federal Social Security.—The provisions of this article shall be liberally construed so as to provide a general retirement system for the employees of the state herein made eligible for such retirement: Provided, however, That nothing in this article shall be construed as permitting any governmental unit, its officers or employees, to substitute
the retirement plan herein authorized for federal social
security, now in force in West Virginia.

The purpose of this act is to provide a state pension
plan which supplements the federal social security pen-
sion plan now in force and heretofore authorized by law
for all officers and employees of the state.

Sec. 4. Effective Date of System.—The effective date of
the West Virginia public employees retirement system
shall be July one, one thousand nine hundred sixty-one:
Provided, however, That for any participating public
employer which cannot make its contribution as provided
by this act from its one thousand nine hundred sixty-one
---one thousand nine hundred sixty-two current funds, the
effective date as to such participating public employer
shall be July one, one thousand nine hundred sixty-two.

Sec. 5. Board of Trustees.—The board of trustees of the
West Virginia public employees retirement system is
hereby created. The administration and management of
the retirement system, the responsibility for making ef-
fective the provisions of this article, and the authority to
make all rules and regulations therefor, are hereby vested
in the said board of trustees, except as is otherwise specifically provided in this article. The board shall consist of five trustees, as follows:

(a) The auditor of the state, by virtue of his office;

(b) The commissioner of finance and administration, by virtue of his office;

(c) A resident of the state, who is not a member, retiree, or beneficiary of the retirement system, to be appointed by the governor with confirmation by the senate;

(d) Two members of the retirement system to be appointed by the governor.

Sec. 6. Trustees' Terms of Office.—The first terms of office for the trustees provided for in section five (c) and (d) hereof shall expire June thirty, one thousand nine hundred sixty-five, June thirty, one thousand nine hundred sixty-four, and June thirty, one thousand nine hundred sixty-three, respectively, as the governor shall designate at the time of the appointments. Thereafter, the terms of office for the said trustees shall be five years. Each trustee shall serve as trustee until his successor is appointed and has qualified. In order to make the pre-
liminary arrangements for the operation of the retirement system as of its effective date, the governor shall make the appointments provided for in section five hereof as soon as practicable after the passage of this act.

Sec. 7. Vacancy on Board; How Filled.—In the event any trustee, provided for in section five (c) and (d) hereof, leaves the employ of a participating public employer, or fails to attend three consecutive meetings of the board of trustees, unless in each case excused for cause by the remaining trustees attending such meeting or meetings, he shall be considered to have resigned from the board and the board shall, by resolution, declare his office of trustee vacated. If a vacancy occurs in the office of such trustee, the governor shall, within thirty days from and after the date of the vacancy, fill the vacancy, by appointment, for the unexpired term.

Sec. 8. Trustees' Compensation.—The trustees shall serve as trustees without compensation for their services as such: Provided, That each trustee shall be reimbursed, upon approval of the board of trustees, for any necessary expenses incurred by him in carrying out his duties of
trustee. No trustee shall suffer any loss of salary or wages on account of his service as trustee.

Sec. 9. Chairman; Executive Secretary; Treasurer; Legal Advisor; Actuary.—(a) The board of trustees shall elect from its own number a chairman and a vice-chairman.

(b) The board of trustees shall appoint an executive secretary of the retirement system. The executive secretary shall be the chief administrative officer of the system; and he shall not be a member of the board. He shall perform such duties as are required of him in this article and as the board shall from time to time delegate to him. The compensation of the executive secretary shall be fixed by the board subject to the approval of the board of public works. He shall, with the approval of the board of trustees, employ such administrative, technical, and clerical employees as shall be required in the proper operation of the system.

(c) The state treasurer shall be treasurer of the retirement system and the custodian of its funds. All bonds and other investments purchased according to the pro-
visions of this article shall forthwith be deposited with
the state treasurer. It shall be his duty to collect the prin-
cipal thereof and the interest and dividends thereon as
the same become due and payable, and when so collected
deposit same to the credit of the retirement system. All
disbursements from the funds of the system shall be made
by the state treasurer only upon written certification duly
authorized by a continuing or specific resolution adopted
by the board of trustees. He shall furnish the board with a
statement of the retirement system securities in his safe-
keeping as the board shall from time to time request.
(d) The attorney general shall be the legal advisor to
the board of trustees.
(e) The board of trustees shall appoint an actuary who
shall be the technical advisor to the board regarding the
operation of the retirement system on an actuarial basis.

Sec. 10. Board Meetings; Quorum; Vote; Proceedings.—
The board of trustees shall hold a meeting at least once
each three months, and shall designate the time and place
thereof. Three trustees shall constitute a quorum at any
meeting of the board. Each trustee shall be entitled to one
vote on each question before the board and at least three
concurring votes shall be required for a decision by the
board at any of its meetings. The board shall adopt its
own rules of procedure and shall keep a record of its pro-
ceedings. All meetings of the board shall be public.

Sec. 11. Reports Required of Board.—The board of
trustees shall submit to the governor for transmittal to
the legislature, on or before the first day of December in
each year, a report showing the fiscal affairs and transac-
tions of the retirement system for the preceding fiscal
year. The said report shall contain, but shall not be lim-
ited to, a financial balance sheet, a statement of income
and disbursements, an actuarial balance sheet prepared
by means of the last actuarial valuation of the system, a
detailed statement of investments acquired and disposed
of during the said fiscal year, and such other data as shall
be deemed necessary for a proper understanding of the
condition of the system. The board shall annually furnish
the members and the participating public employers with
a summary of the results of the operations of the system.

Sec. 12. Officer and Employee Bonds.—The state treas-
Sec. 13. Actuarial Investigations; Valuations.—(a) The board of trustees shall keep, or cause to be kept, such data as shall be necessary for the preparation of mortality, service, and retirement tables, and for the compilation of such other data as shall be required for an actuarial valuation of the assets and liabilities of the retirement system.

(b) Beginning in one thousand nine hundred sixty-six, and in each five-year period thereafter, the actuary
shall make actuarial investigations into the experiences
of the members, retirants and beneficiaries of the retire-
ment system. Based upon such investigations the board of
trustees shall adopt for the system rates of mortality, with-
drawal from service, superannuation retirement and dis-
ability retirement, and salary scales for final average
salary.

(c) Beginning in one thousand nine hundred sixty-
two, and at least once in each three-year period thereafter,
the actuary shall make an actuarial valuation of the assets
and liabilities of the retirement system: Provided, That
until the first actuarial investigations are made, the valua-
tions shall be based upon decrement assumptions which
are, in the opinion of the actuary, applicable to the mem-
bers, retirants and beneficiaries of the system.

(d) Beginning in one thousand nine hundred sixty-
two, the actuary shall annually compute the annuity re-
serve liabilities for annuities being paid retirants and
beneficiaries.

Sec. 14. Service Credit.—The board of trustees shall
credit each member with the prior service and contri-
buting service to which he is entitled based upon such
rules and regulations as the board of trustees shall from
time to time adopt: Provided, That in no case shall less
than ten days of service rendered by a member in any
calendar month be credited as a month of service; nor
shall less than ten months of service rendered in any
calendar year be credited as a year of service; nor shall
more than one year of service be credited any member for
all service rendered by him in any calendar year; nor shall
any member who was not in the employ of a political
subdivision within a period of five years immediately
preceding the date the political subdivision became a par-
ticipating public employer be credited with prior service.

Sec. 15. Military Service Credit.—In the event a mem-
ber, who while employed by a participating public em-
ployer, entered or enters the armed forces of the United
States during any period of compulsory military service
and reenters the employ of a participating public em-
ployer, such armed service rendered by him, not to exceed
five years, shall be credited to him: Provided, That (1)
his reemployment by a participating public employer
occurs within a period of six months from and after the
date of termination of such armed service actually re-
quired of him, and (2) he pays to the members deposit
fund the amount he may have withdrawn therefrom, to-
gether with regular interest from the date of withdrawal
to the date of repayment. In any case of doubt as to the
period of service to be so credited a member, the board
of trustees shall have final power to determine such
period. During the period of such armed service and
until his return to the employ of a participating public
employer his contributions to the retirement system shall
be suspended and any balance remaining to his credit in
the members deposit fund shall be accumulated at regular
interest.

Sec. 16. Political Subdivision Becomes Participating

Public Employer.—The state of West Virginia shall be-
come a participating public employer effective July one,
one thousand nine hundred sixty-one. Any other political
subdivision may by a three-fifths vote of its governing
body, or by a majority vote of its electors, elect to become
a participating public employer and thereby include its
employees in the membership of the retirement system.

It shall be the duty of the clerk or secretary of each such political subdivision electing to become a participating public employer to certify the determination of the political subdivision to the board of trustees within ten days from and after the vote of the governing body or the canvass of votes upon such action.

Sec. 17. Retirement System Membership.—The membership of the retirement system shall consist of the following persons:

(a) All employees, as defined in section two hereof, who are in the employ of a political subdivision the day preceding the date it becomes a participating public employer and who continue in the employ of the said participating public employer on or after the said date shall become members of the retirement system; and all persons who become employees of a participating public employer on or after the said date shall thereupon become members of the system; except as provided in paragraphs (b) and (c) of this section.

(b) The membership of the retirement system shall
not include any person who is a member of, or who has
been retired by, the state teachers' retirement system, the
judges' retirement system, the retirement system of the
department of public safety, or any municipal retirement
system for either, or both, policemen or firemen, and the
West Virginia department of employment security, by
the director of such department, may elect whether its
employees will accept coverage under this article or be
covered under authorization of a separate enactment: Pro-
vided, That such exclusions of membership shall not apply
to any member of the state legislature, or to any member
of the legislative body of any other political subdivision.
(c) Any member of the state legislature, or any mem-
er of the legislative body of any other political sub-
division may exempt himself from membership in the
retirement system by filing his written notice with the
board of trustees of his desire to be so exempted: Pro-
vided, That such written notice shall be filed prior to July
one, one thousand nine hundred sixty-two, if he was a
member of such legislative body June thirty, one thou-
sand nine hundred sixty-one; or prior to the expiration of
36 a period of one year from and after the date he assumes
37 such legislative office, if he was not a member of such
38 legislative body June thirty, one thousand nine hundred
39 sixty-one.
40 (d) Should any question arise regarding the membership
41 status of any employee, the board of trustees has the
42 final power to decide the question.

Sec. 18. Termination of Membership.—In the event a
2 member leaves the employ of a participating public em-
3 ployer, except to become a retirant or his death, he shall
4 thereupon cease to be a member and his credited service
5 at that time shall be forfeited by him. If he becomes re-
6 employed by a participating public employer he shall
7 again become a member of the retirement system. Should
8 his said reemployment occur within a period of five years
9 from and after the date he last left the employ of a par-
10 ticipating public employer his credited service last for-
11 feited by him shall be restored to his credit: Provided,
12 That he returns to the members deposit fund the amount,
13 if any, he withdrew therefrom, together with regular in-
14 terest thereon from the date of withdrawal to the date of
repayment. Upon a member's retirement or death he shall thereupon cease to be a member.

Sec. 19. Membership Forms.—Each participating public employer shall file with the board of trustees, in such form as the board shall from time to time prescribe, a detailed statement of all service rendered to participating public employers by each of its employees, and such other information as the board shall require in the operation of the retirement system.

Sec. 20. Voluntary Retirement.—Any member who has attained or attains age sixty years and has ten or more years of credited service in force may retire upon his written application filed with the board of trustees setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof he desires to be retired. Upon his retirement he shall receive an annuity provided for in section twenty-two hereof.

Sec. 21. Deferred Retirement.—If any member, who has twenty or more years of credited service in force, of which at least five years are contributing service, leave the em-
ploy of a participating public employer prior to his attainment of age sixty years, for any reason except his disability retirement or death, he shall be entitled to an annuity computed according to section twenty-two hereof, as the said section was in force as of the date of his said separation from the employ of a participating public employer: Provided, That he does not withdraw his accumulated contributions from the members deposit fund. His said annuity shall begin the first day of the calendar month next following the month in which his application for same is filed with the board of trustees on or after his attainment of age sixty-five years.

Sec. 22. Retirement Annuity.—Upon a member's retirement, as provided in this article, he shall receive a straight life annuity equal to one per cent of his final average salary multiplied by the number of years, and fraction of a year, of his credited service in force at the time of his retirement. Upon his retirement he shall have the right to elect an option provided for in section twenty-four hereof:

Sec. 23. Terminal Payment.—In the event a retirant
dies before he has received in straight life annuity payments an aggregate amount equal to his accumulated contributions standing to his credit in the members deposit fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of straight life annuity payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the board of trustees. If there be no such designated person or persons surviving the said retirant such difference, if any, shall be paid to his estate. In no case shall any benefits be paid under this section twenty-three on account of the death of a retirant if he was receiving an annuity under option A or B provided for in section twenty-four hereof.

Sec. 24. Annuity Options.—Prior to the effective date of his retirement, but not thereafter, a member may elect to receive his annuity as a straight life annuity payable throughout his life, or he may elect to receive the actuarial equivalent, at that time, of his straight life annuity in a reduced annuity payable throughout his life,
and nominate a beneficiary, in accordance with option A or B set forth below:

Option A—Joint and Survivor Annuity.—Upon the death of a retiree who elected option A, his reduced annuity shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board of trustees prior to the effective date of his retirement; or

Option B—Modified Joint and Survivor Annuity.—Upon the death of a retiree who elected option B, one-half of his reduced annuity shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board of trustees prior to the effective date of his retirement.

Sec. 25. Disability Retirement.—Upon the application of a member, or his employing authority, a member who (1) is in the employ of a participating public employer, (2) has ten or more years of credited service, and (3) becomes totally and permanently incapacitated for duty in
the employ of a participating public employer, by reason of a personal injury or disease, may be retired by the board of trustees: Provided, That after a medical examination of the said member, made by or under the direction of a medical committee consisting of three physicians, one of whom shall be named by the board, one by the said member, and the third by the first two physicians so named, the said medical committee reports, in writing, to the board that (1) the said member is physically or mentally totally incapacitated for duty in the employ of a participating public employer, (2) that such incapacity will probably be permanent, and (3) that the said member should be retired.

(b) A member with less than ten years of credited service shall have the service requirement provided for in paragraph (a) above waived in the event (1) the board of trustees finds his total and permanent disability to be the natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty in the employ of a participating public employer, and (2) he is in receipt of workmen's compen-
(c) Upon a member's retirement, as provided in this section, he shall receive a straight life annuity computed according to section twenty-two hereof and he shall have the right to elect an option provided for in section twenty-four hereof: Provided, That his straight life annuity payable to his attainment of age sixty-five years shall not be less than twenty-five per cent of his final average salary; and his said straight life annuity payable from and after his attainment of age sixty-five years shall not be less than ten per cent of his final average salary: Provided further, That his said annuity shall be subject to section twenty-six hereof.

Sec. 26. Reexamination of Disability Retirants.—(a)

At least once each year during the first five years following the retirement of a member on account of disability, as provided in section ten hereof, and at least once in each three-year period thereafter, the board of trustees may, and upon the retirant's application shall, require a disability retirant, who has not attained age sixty years, to undergo a medical examination to be made by or under
the direction of a physician designated by the board.

Should the said retirant refuse to submit to such medical examination in any such period his disability annuity may be discontinued by the board until his withdrawal of such refusal. Should such refusal continue for one year all his rights in and to his annuity may be revoked by the board. If upon such medical examination of a disability retirant, the said physician reports to the board that the retirant is physically able and capable of resuming employment with a participating public employer he shall be returned to the employ of the participating public employer from whose employment he retired and his disability annuity shall terminate: Provided, That the report of the said physician is concurred in by the board.

(b) A disability retirant who is returned to the employ of a participating public employer shall again become a member of the retirement system and his credited service in force at the time of his retirement shall be restored to his credit.

(c) If a disability retirant, who has not attained age sixty years, becomes engaged in a gainful occupation,
business or employment, and the sum of his earnings
from such occupation, business or employment, and his
disability annuity exceeds his annual rate of compensa-
tion at the time of his retirement, his disability annuity
shall be reduced to an amount which when added to the
amount so earned by him shall equal his said annual rate
of compensation. If his earnings are later changed his
disability annuity shall be correspondingly adjusted.

Sec. 27. Non-duty Death Annuities.—(a) Any member
who continues in the employ of a participating public
employer on or after the date he either (1) acquires twen-
ty-five years of credited service, or (2) attains age sixty
years and has ten or more years of credited service, may
at any time prior to the effective date of his retirement,
by written declaration duly executed and filed with the
board of trustees, in the same manner as if he were then
retiring from the employ of a participating public em-
ployer, elect option A provided for in section twenty-four
hereof, and nominate a beneficiary whom the board finds
to have been dependent upon the said member for at least
fifty per cent of his financial support. Prior to the effective
date of his retirement a member may revoke his said
election of option A and nomination of beneficiary and he
may again prior to his retirement elect the said option A
and nominate a beneficiary as provided in this subsection.
Upon the death of a member who has an option A elec-
tion in force his beneficiary, if living, shall immediately
receive an annuity computed in the same manner in all
respects as if the said member had retired the day pre-
ceding the date of his death, notwithstanding that he
might not have attained age sixty years, and elected the
said option A. If at the time of his retirement a member
has an option A election in force, his said election of option
A and nomination of beneficiary shall thereafter con-
tinue in force.

(b) Any member who continues in the employ of a
participating public employer on or after the date he
either acquires twenty-five years of credited service, or
attains age sixty years and has ten or more years of cred-
ited service, and does not have an option A election in
force as provided in subsection (a) of this section, and (1)
dies while in the employ of a participating public em-
pployer, and (2) leaves a widow, or, in the case of a female
member, leaves a widower whom the board of trustees
finds to be totally and permanently disabled and to have
been dependent upon the said female member for at least
fifty per cent of his financial support, the said widow or
widower, as the case may be, shall immediately receive
an annuity computed in the same manner in all respects
as if the said member had (1) retired the day preceding
the date of his death, notwithstanding that he might not
have attained age sixty years, (2) elected option A pro-
vided for in section twenty-four hereof, and (3) nominated
his said widow or widower, as the case may be, as bene-
ficiary.

Sec. 28. Funds of Retirement System.—For financing
and accounting purposes the West Virginia public em-
ployees retirement system shall consist of two divisions,
namely, the state division for the participation of state
employees, and the public employer division for the par-
ticipation of the public employees who are not state em-
ployees. Separate accounting of the retirement system
transactions shall be maintained for each division showing
the equities of each division in the assets of the system.

The retirement system funds shall be (1) the members deposit fund, (2) the employers accumulation fund, (3) the retirement reserve fund, (4) the income fund, and (5) the expense fund. Each such fund shall be maintained by the board of trustees for the state division and the public employer division, respectively. Nothing contained in this section shall be interpreted to mean that the assets of the system are to be segregated between the division or the funds.

Sec. 29. Members Deposit Fund.—(a) The members deposit fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members, and from which refunds of accumulated contributions shall be paid and transfers made as provided in this section.

(b) The contributions of a member to the retirement system shall be three and five-tenths per cent of his annual compensations. The said contributions shall be made notwithstanding that the minimum salary or wages provided by law for any member shall be thereby changed.
Each member shall be deemed to consent and agree to the
deductions made and provided for herein. Payment of a
member's compensation less said deductions shall be a
full and complete discharge and acquittance of all claims
and demands whatsoever for services rendered by him to
a participating public employer, except as to benefits pro-
vided by this article.

(c) The officer or officers responsible for making up the payrolls for payroll unit of the state government and for each of the other participating public employers shall cause the contributions, provided for in paragraph (b) above, to be deducted from the compensations of each member in the employ of the participating public em-
ployer, on each and every payroll, for each and every pay-
roll period, from the date the member enters the retire-
ment system to the date his membership terminates.
When deducted, each of said amounts shall be paid by the participating public employer to the retirement system; said payments to be made in such manner and form, and
in such frequency, and shall be accompanied by such sup-
porting data, as the board of trustees shall from time to
time prescribe. When paid to the retirement system each of said amounts shall be credited to the members deposit fund account of the member from whose compensations said contributions were deducted.

(d) In addition to the contributions deducted from the compensations of a member, as heretofore provided, a member shall deposit in the members deposit fund, by a single contribution or by an increased rate of contribution as approved by the board of trustees, the amounts he may have withdrawn therefrom and not repaid thereto, together with regular interest from the date of withdrawal to the date of repayment. In no case shall a member be given credit for service rendered prior to the date he withdrew his contributions or accumulated contributions, as the case may be, until he returns to the members deposit fund all amounts due the said fund by him.

(e) Upon the retirement of a member, or if a survivor annuity becomes payable on account of his death, in either event his accumulated contributions standing to his credit in the members deposit fund shall be transferred to the retirement reserve fund.
(f) In the event an employee's membership in the retirement system terminates and no annuity becomes or will become payable on his account, any accumulated contributions standing to his credit in the members deposit fund, unclaimed by the said employee, or his legal representative, within three years from and after the date his membership terminated, shall be transferred to the income fund.

Sec. 30. Refund of Accumulated Contributions.—(a) In the event a member leaves the employ of a participating public employer prior to the date he becomes entitled to retire with an annuity payable by the retirement system he shall be paid, upon his written application filed with the board of trustees, his accumulated contributions standing to his credit in the members deposit fund, if his separation from the employ of a participating public employer occurs within a period of five years from and after the date he last became a member of the system. If his said separation from the employ of a participating public employer occurs within a period of five years from and after the date he last became a member of the system, he
shall be paid his accumulated contributions standing to
his credit in the members deposit fund less the total in-
terest credited to his individual account therein; and the
said total interest credit shall be transferred to the income
fund.

(b) In the event a member dies and does not leave a
beneficiary entitled to an annuity payable by the retire-
ment system, his accumulated contributions standing to
his credit in the members deposit fund at the time of his
death shall be paid to such person or persons as he shall
have nominated by written designation duly executed
and filed with the board of trustees. If there be no such
designated person or persons surviving the said member,
his said accumulated contributions shall be paid to his
estate.

(c) Refunds of a member's contributions or accumu-
lated contributions, as the case may be, may be made in
equal installments according to such rules and regula-
tions as the board of trustees may from time to time
adopt.

Sec. 31. Employers Accumulation Fund.—The employ-
ers accumulation fund is hereby created. It shall be the fund in which shall be accumulated the contributions made by the participating public employers to the retirement system, and from which transfers shall be made as provided in this section.

(b) Based upon the provisions of section thirteen of this article, the participating public employers' contributions to the retirement system shall be determined, according to paragraphs (1), (2), (3) and (4) below, for the state as the state division, and for the other participating public employers as the public employer division.

(1) The participating public employers' contributions for members' current service shall be a per cent of the members' annual compensation which will equal an amount which if paid annually by the participating public employers during the members' future service will be sufficient to provide, at the time annuities will become payable on their account, the difference between the annuity reserves for the future service portions of the annuities to be paid and the present value of the members' future net contributions.
23 (2) The participating public employers' contributions
24 for members' accrued service shall be a per cent of the
25 members' annual compensation which will equal an
26 amount which if paid annually by the participating public
27 employers over a period of years, to be determined by the
28 board of trustees, will amortize, at regular interest, the
29 unfunded annuity reserves for the accrued portions of
30 the annuities to be paid on account of members.
31 (3) The participating public employers' contributions
32 for annuities being paid retirees and beneficiaries shall
33 be a per cent of the members' annual compensations which
34 will equal an amount which if paid annually by the par-
35 ticipating public employers over a period of years, to be
36 determined by the board of trustees, will amortize, at
37 regular interest the unfunded annuity reserves for annu-
38 ities being paid retirees and beneficiaries.
39 (4) In no year shall the total of the contributions, pro-
40 vided for in paragraphs (1), (2) and (3) above, to be paid
41 by any participating public employer exceed five per cent
42 of the total payroll for the members in the employ of such
Sec. 32. **State Contributions to Retirement System.**—

(a) At least thirty days prior to each regular session of the legislature, the board of trustees shall certify to the governor the contributions, determined according to section thirty-one hereof, to be made by the state to the retirement system for the next following fiscal year; the said contributions to be based upon the state's total payroll for the preceding twelve calendar months. The amounts so ascertained shall be included in the appropriation bill to be submitted to the legislature. In the event the state's contributions for the fiscal year are less than they would have been based upon the state's actual payroll for the fiscal year, the amount of the insufficiency shall be included in the appropriation bill for the next following fiscal year. The said contributions shall be paid to the retirement system quarterly and when paid shall be credited to the employers accumulation fund.

(b) In the case of any member whose compensation is paid out of moneys derived in whole or in part out of any...
special fund, or from any source other than the state, then contributions on behalf of such member in any year shall be paid out of such special fund or by such other source in proportion to that part of the member's compensation derived therefrom for that year. The governing body of each participating public employer is hereby authorized to make such contributions from funds of the participating public employer as shall be necessary to pay its proportionate share of contributions on account of each state employee whose compensation is paid by such participating public employer.

Sec. 33. Contributions by Other Participating Public Employers.—(a) The board of trustees shall annually certify to each participating public employer, other than the state, the employer contribution rate, determined in section thirty-one hereof, for the public employer division. Each participating public employer shall pay to the state treasurer, for credit to the retirement system, the contributions equal to the said contribution rate applied to each and every payroll of the participating public employer. The said payments shall be made in such manner and
form, and in such frequency, and shall be accompanied by
such supporting data, as the board shall from time to time
prescribe. When paid, the said contributions shall be cred-
ited to the employers accumulation fund.

(b) If any participating public employer, other than
the state, fails to make any payment due the retirement
system for a period of sixty days after the payment is
due, the participating public employer shall become de-
linquent, and such delinquency shall be certified to the
state auditor by the board of trustees. If any participating
public employer becomes delinquent, as provided herein,
the state auditor is authorized and directed to withhold
any money due such participating public employer by
the state until such delinquency, together with regular:
interest thereon, from the date due, is satisfied. Such
money so withheld by the state auditor shall be paid to
the retirement system and credited to the employers ac-
cumulation fund.

Sec. 34. Transfers from Employers Accumulation Fund.

Upon the retirement of a member, or if an annuity be-
comes payable on account of the death of a member, the
difference between the annuity reserve and the member's accumulated contributions standing to his credit in the members deposit fund at the time of his retirement or death, as the case may be, shall be transferred to the retirement reserve fund.

Sec. 35. Retirement Reserve Fund.—The retirement reserve fund is hereby created. It shall be the fund from which shall be paid all annuities payable as provided in this article. If a disability retirant returns to the employ of a participating public employer his annuity reserve at that time shall be transferred from the retirement reserve fund to the members deposit fund and the employers accumulation fund in the same proportions as the annuity reserve was originally transferred to the retirement reserve fund. The amount so transferred to the members deposit fund shall be credited to his individual account therein.

Sec. 36. Income Fund.—The income fund is hereby created. It shall be the fund to which shall be credited all interest, dividends and other income from investments of the retirement system, all transfers from the
members deposit fund by reason of lack of claimant or forfeiture of interest credits, and all other moneys received by the retirement system, the disposition of which is not specifically provided for in this article. The board of trustees may accept gifts and bequests and same shall be credited to the income fund. There shall be paid or transferred from the income fund all amounts required to credit regular interest to the members deposit fund, employers accumulation fund, and the retirement reserve fund, as provided in this article. Whenever the board determines that the balance in the income fund is more than sufficient to cover the current charges to the fund, the board may, by resolution, provide for contingency reserves, or for the transfer of such excess, or portions thereof, to cover the needs of the other funds of the retirement system.

Sec. 37. Expense Fund.—The expense fund shall be the fund from which shall be paid the expenses incurred in the administration of the retirement system. The cost of administering the system shall be paid by the state and the other participating public employers on a proportion-
ate basis to be determined by the board of trustees. The board shall annually certify to the governor the state's proportionate share of the cost of administration, and to each of the other participating public employers their respective shares and each of said participating public employers shall pay the amounts due by them to the state treasurer for credit to the expense fund.

Sec. 38. Investment of Moneys.—All moneys of the retirement system not currently required for the payment of annuities or other benefits shall be invested by the board of public works in any securities or investments in which the sinking funds of the state may be legally invested, or in any securities or investments in which the deposits in savings banks and participation deposits in banks and trust companies may be legally invested, as provided by the general laws. The board of public works shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the moneys of the retirement system have been invested, as well as the proceeds of such investments. It shall be the duty of every state department or insti-
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15 tuition issuing any bonds to offer same in writing to the
16 board of public works prior to advertising them for sale.
17 The said board, within fifteen days from and after re-
18 ceipt of such offer, may accept or reject such offer in
19 whole or in part. Available cash on deposit shall not ex-
20 ceed ten per cent of the total assets of the system.

Sec. 39. No Trustee Shall Gain from Investments of
2 System.—Except as otherwise provided in this article, no
3 trustee, no member of the board of public works, and no
4 employee of the board of trustees shall have any interest,
5 direct or indirect, in the gains or profits arising from any
6 investment or reinvestment of retirement system moneys.
7 No trustee, no member of the board of public works, and
8 no employee of the board of trustees shall, directly or
9 indirectly, for himself or as an agent or partner of others,
10 in any manner use the same, except to make current and
11 necessary payments as are authorized by the board of
12 trustees. No trustee, no member of the board of public
13 works, and no employee of the board of trustees shall
14 become an endorser or surety or become in any manner
15 an obligor for moneys loaned or borrowed by the retire-
ment system. Nothing contained herein shall be con-
strued to impair the rights of any member of the retire-
ment system to benefits provided by the system.

Sec. 40. Restricted Use of Retirement System Moneys.—
The moneys, investments and all other assets of the re-
tirement system shall be used for the sole purpose of
meeting the disbursements for annuities and other pay-
ments authorized by this article, and shall be used for
no other purpose whatsoever.

Sec. 41. Allowance of Regular Interest.—The board of
trustees shall, at the end of each fiscal year, allow and
credit regular interest on the balance at the beginning of
the said fiscal year in each member's individual account
in the members deposit fund, and on the mean balances in
the employers accumulation fund and the retirement re-
serve fund. The interest so allowed and credited shall
be charged to the income fund.

Sec. 42. Fiscal Year.—The fiscal year of the retirement
system shall coincide with the fiscal year of the state.

Sec. 43. Prorate of Annuities.—Any provision in this
article to the contrary notwithstanding, if at the end of
any fiscal year the total of the annuities paid from the
retirement reserve fund during the said fiscal year is
more than ten per cent of the sum of the balances in the
employers accumulation fund and the retirement reserve
fund at the end of the said fiscal year, the said annuities
payable in the next ensuing fiscal year shall be reduced,
pro rata, so that the sum of the annuities so reduced shall
not exceed ten per cent of the sum of the said balances in
the employers accumulation fund and the retirement re-
serve fund. The said pro rata reduction shall be applied
to all annuities payable in the said ensuing fiscal year.

Sec. 44. Errors.—Should any change or error in the
records of any participating public employer or the re-
tirement system result in any person receiving from the
system more or less than he would have been entitled to
receive had the records been correct, the board of trustees
shall correct such error, and as far as is practicable shall
adjust the payment of the benefit in such manner that the
actuarial equivalent of the benefit to which such person
was correctly entitled shall be paid.

Sec. 45. Fraud Penalty.—Any person who shall know-
ingly make any false statement or shall falsify or permit
to be falsified any record or records of the retirement
system in any attempt to defraud the system shall be
guilty of a misdemeanor and upon conviction thereof
shall be punished accordingly.

Sec. 46. Assignments Prohibited.—The right of a person
to any benefit provided for in this article shall not be
subject to execution, attachment, garnishment, the opera-
tion of bankruptcy or insolvency laws, or other process
whatsoever, nor shall any assignment thereof be enforce-
able in any court: Provided, That should a member be
covered by a group insurance or prepayment plan par-
ticipated in by a participating public employer, and should
he be permitted to, and elect to, continue such coverage
as a retirant, he may authorize the board of trustees to
have deducted from his annuity the payments required of
him to continue coverage under such group insurance or
prepayment plan: Provided further, That a participating
public employer shall have the right of setoff for any
claim arising from embezzlement by, or fraud of, a mem-
ber, retirant or beneficiary.
Sec. 47. Tax Exemptions.—The annuities and other benefits provided by this article, and the assets of the retirement system, are hereby exempt from state, county and municipal taxes.

Sec. 48. Validity.—If any part of this article is declared unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article, or the article in its entirety.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

[Signature]

Chairman House Committee

[Signature]

Originated in the Senate.

Take effect July 1st, 1961

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

The within approved this the 17th day of March, 1961.

[Signature]

Governor