

WEST VIRGINIA LEGISLATURE

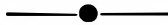
REGULAR SESSION, 1961



ENROLLED

HOUSE BILL No. 217

(By Mr. *Speaker, Mr. Singleton, and Mr. Seibert*)



PASSED *February 2nd* 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

217

ENROLLED
House Bill No. 217

(By MR. SPEAKER, MR. SINGLETON, and MR. SEIBERT)

[Passed February 22, 1961; in effect from passage.]

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
3 thirteen of this article, any person who is now serving,
4 or who shall hereafter serve as a judge of any court of
5 record of this state and shall have served as such judge
6 for a period of not less than sixteen full years and shall
7 have reached the age of sixty-five years, or who has
8 served as judge of such court or of that court and other
9 courts of record of the state for a period of sixteen full
10 years or more (whether continuously or not and whether
11 said service be entirely before or after this act shall be-
12 come effective, or partly before and partly after said
13 date, and whether or not said judge shall be in office on
14 the date he shall become eligible to benefits hereunder),
15 shall, upon a determination and certification of his eligi-
16 bility as provided in section nine hereof, be paid from the
17 fund annual retirement benefits, so long as he shall live,

18 in an amount equal to seventy-five per cent of the an-
19 nual salary of the office from which he has retired based
20 upon such salary of such office as such salary may be
21 changed from time to time during the period of his re-
22 tirement and the amount of his retirement benefits shall
23 be based upon and be equal to seventy-five per cent of
24 the highest annual salary of such office for any one cal-
25 endar year during the period of his retirement, and shall
26 be payable in monthly installments: *Provided*, That such
27 retirement benefits shall be paid only after said judge has
28 resigned as such or, for any reason other than his im-
29 peachment, his service as such has ended: *And provided*
30 *further*, That the provisions of this article shall apply to
31 those judges who were in office at the time it originally
32 became effective, those who have since become judges,
33 those who have retired under the provisions thereof, and
34 those who shall hereafter serve as judges of the courts
35 of record of this state.

36 In determining eligibility for the benefits provided by
37 this section, any portion of the term of office of any judge
38 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

10 article, not inconsistent with the provisions hereof, and
11 shall receive retirement benefits in an amount equal to
12 seventy-five per cent of the annual salary of the office
13 from which he has retired based upon such salary of such
14 office as such salary may be changed from time to time dur-
15 ing the period of his retirement and the amount of his re-
16 tirement benefits shall be based upon and be equal to
17 seventy-five per cent of the highest annual salary of such
18 office for any one calendar year during the period of his re-
19 tirement, and shall be payable in monthly installments.
20 If such judge shall become incapacitated to perform his
21 said duties before the expiration of his said term and
22 after serving for six years thereof, and upon the ac-
23 ceptance of his resignation as in this article provided, he
24 shall be paid the annual retirement benefits as herein
25 provided so long as he shall live. The provisions of this
26 section shall prevail over any language to the contrary in
27 this article contained.

Sec. 6-b. *Annuities for the Widows of those Judges*
2 *Eligible for Retirement Benefits; Amount and Payment*
3 *of Same.*—There shall be paid, from the fund created by

4 section two of this article, an annuity to the widow of a
5 judge, who, at death, is eligible for the retirement bene-
6 fits provided by section six or six-a of this article, and who
7 dies, either while in office or after resignation or retire-
8 ment from office pursuant to the provisions of this article:
9 *Provided, however,* That any annuity accruing under this
10 section shall be paid from, and only from, the fund, and
11 the interest thereon, accumulated through the contribu-
12 tions of judges from whose salary deductions have been
13 made, as herein provided, and no annuity accruing here-
14 under shall be paid from any public moneys contributed
15 to the Judges' Retirement Fund by the State of West
16 Virginia.

17 Said annuity shall amount to forty per cent of the an-
18 nual salary of the office which said judge held at his
19 death or from which he resigned or retired. In the event
20 said salary is increased or decreased while an annuitant
21 is receiving the benefits hereunder, her annuity shall
22 amount to forty per cent of the new salary. The annuity
23 granted hereunder shall accrue monthly and shall be due
24 and payable in monthly installments on the first business

25 day of the month following the month for which the
26 annuity shall have accrued. Such annuity shall com-
27 mence on the first day of the month in which said judge
28 dies and shall terminate upon the death or remarriage of
29 the annuitant.

Sec. 12. *Refunds.*—Any judge of a court of record of
2 this state whose services have terminated, otherwise than
3 by retirement under provisions of this article, shall, upon
4 his written demand, or the written demand of his personal
5 representative, filed with the state auditor, by a proper
6 warrant of the state auditor drawn on the fund, be re-
7 funded, without interest, any and all money paid by or
8 for said judge into the fund. Such repayment shall termi-
9 nate all rights of said judge to participate thereafter at
10 any time in the benefits and pay of the retirement sys-
11 tem, without prejudice, however, to his right to reenter
12 the system after a subsequent appointment or election
13 to a qualified judgeship, but without credit for any prior
14 years of service: *Provided, however,* That, should a re-
15 tired judge die, without leaving a widow surviving, while
16 receiving retirement benefits under the provisions of this

17 article, and before he has received from the Judges' Re-
18 tirement Fund an amount equal to, or in excess of, sums
19 paid by him into such fund, or should the widow, as
20 defined by section six-b of this article, who is entitled to
21 an annuity under the provisions of section six-b die or
22 remarry while receiving annuity benefits, and before she
23 and her husband have received from the Judges' Retire-
24 ment Fund an amount equal to, or in excess of, sums
25 contributed by him to such fund, then, and in either of
26 these events, the state auditor shall, upon the written de-
27 mand of the personal representative of the judge or widow,
28 as the case may be, filed with the state auditor, by a
29 proper warrant drawn on the fund, refund, without in-
30 terest, to the estate of such judge or such widow, as the
31 case may be, an amount equal to the difference between
32 the sums contributed to the fund by or for such judge and
33 the amount of such retirement benefits and annuities paid
34 to him and his widow.

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

Samuel Davis, Jr.
Chairman Senate Committee

Mrs. H. H. Withrow
Chairman House Committee

Originated in the House.

Takes effect *from* passage.

Howard H. Hays, Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Howard E. Hanson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

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

W. M. Barron
Governor

