

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1963**

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**ENROLLED**

**SENATE BILL NO. 81**

(By Mr. McKOWN)

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PASSED March 4 1963

In Effect July 1, 1963 Passage



Filed in Office of the Secretary of State  
of West Virginia 3-11-63

**JOE F. BURDETT**  
**SECRETARY OF STATE**

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AN ACT to amend and reenact sections fourteen, seventeen, twenty-three and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, increasing benefits in the state teachers' retirement system.

*Be it enacted by the Legislature of West Virginia:*

That sections fourteen, seventeen, twenty-three and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Section 14. Contributions by Members.**—At the end of  
2 each month every member of the retirement system shall  
3 contribute four and one-half per cent of his monthly

4 earnable compensation to the retirement board: *Provided,*  
5 That in no case shall the contribution of any member  
6 exceed three hundred thirty-eight dollars in any fiscal  
7 year: *Provided, however,* That in no case shall the con-  
8 tribution of any member employed by the board of gov-  
9 ernors of West Virginia University, or by the West Vir-  
10 ginia board of education at an institution of higher educa-  
11 tion under its control, exceed two hundred sixteen dollars  
12 in any fiscal year.

13 Such contributions shall be deemed to include the an-  
14 nual supplementary fee of the contributor, determined as  
15 hereinafter provided, which fee shall be used to help  
16 finance the additional retirement benefit provided for in  
17 subsection (e), section twenty-six of this article. An-  
18 nually, the contributions of each member, minus his sup-  
19 plementary fee, shall be credited to his account in the  
20 teachers' accumulation fund. The contributions shall be  
21 deducted from the salaries of the members as herein pre-  
22 scribed, and every member shall be deemed to have given  
23 his consent to such deductions. No deductions, however,  
24 shall be made from the earnable compensation of any

25 teacher who retired because of age or service, and then  
26 resumed service as a teacher.

27 The retirement board shall each year determine to the  
28 nearest dollar the amount of the supplementary fee to be  
29 paid by each member, so that the sum of such fees paid  
30 by all members shall be sufficient to defray one-half of  
31 the cost of the retirement benefit provided for in subsec-  
32 tion (e), section twenty-six of this article. The amount  
33 so fixed shall not exceed twenty dollars, nor shall it in  
34 any case exceed one-sixth of the annual contribution of  
35 the member. All supplementary fees shall be deposited  
36 in the benefit fund.

37 The aggregate of employer contributions, due and pay-  
38 able under this article, shall equal annually the total de-  
39 ductions from the earnable compensation of members  
40 required by this section. All employer contributions shall  
41 be credited to the employers' accumulation fund, from  
42 which fund an amount equalling annually the supple-  
43 mentary fees of members shall be transferred to the  
44 benefit fund.

45 Payment by an employer to a member of the sum speci-

46 fied in the employment contract minus the amount of the  
47 employee's deductions shall be deemed to be a full dis-  
48 charge of the employer's contractual obligation as to  
49 earnable compensation.

50 Each contributor shall file with the retirement board  
51 or with the employer to be forwarded to the retirement  
52 board an enrollment form showing his date of birth and  
53 other data needed by the retirement board. Upon notice  
54 from the retirement board to the employer that a con-  
55 tributor has failed to file such forms as prescribed, the  
56 employer shall withhold the salary of the contributor  
57 until the needed form is filed with the retirement board.

**Sec. 17. Statement and Computation of Teachers' Serv-**

2 **ice.**—Under such rules and regulations as the retirement  
3 board may adopt, each teacher shall file a detailed state-  
4 ment of his length of service as a teacher for which he  
5 claims credit. The retirement board shall determine what  
6 part of a year is the equivalent of a year of service. In  
7 computing such service, however, it shall credit no period  
8 of more than a month's duration during which a member

9 was absent without pay, nor shall it credit for more than  
10 one year service performed in any calendar year.

11 For the purpose of this article the retirement board  
12 shall grant prior service credit to new entrants and other  
13 members of the retirement system for service in any of  
14 the armed forces of the United States in any period of  
15 national emergency within which a federal selective  
16 service act was in effect. For purposes of this section  
17 "armed forces" shall include women's army corps,  
18 women's appointed volunteers for emergency service,  
19 army nurse corps, spars, women's reserve, and other simi-  
20 lar units officially parts of the military service of the  
21 United States. Such military service shall be deemed  
22 equivalent to public school teaching, and the salary equiv-  
23 alent for each year of such service shall be the actual  
24 salary of the member as a teacher for his first year of  
25 teaching after discharge from military service. Prior  
26 service credit for military service shall not exceed ten  
27 years for any one member, nor shall it exceed twenty-  
28 five per cent of total service at the time of retirement.

29 For service as a teacher in the employment of the fed-

30 eral government, or a state or territory of the United  
31 States, or a governmental subdivision of such state or  
32 territory the retirement board shall grant credit to the  
33 same extent and on the same conditions, if any, as a re-  
34 tirement system established for teachers in such employ-  
35 ment would grant credit for service as a teacher in the  
36 public schools of West Virginia.

37 No member shall be deemed absent from service as a  
38 teacher while serving as a member of the Legislature of  
39 the state of West Virginia during any duly constituted  
40 session of that body.

41 If a member is not eligible for prior service credit or  
42 pension as provided in this article, then his prior service  
43 shall not be deemed a part of his total service.

44 A member who withdrew from membership shall be  
45 permitted to regain his former membership rights as  
46 specified in section thirteen of this article only in case he  
47 has served two years since his last withdrawal.

48 Subject to the above provisions, the board shall verify  
49 as soon as practicable, the statements of service sub-  
50 mitted. The retirement board shall issue prior service

51 certificates to all persons eligible therefor under the pro-  
52 visions of this article. Such certificates shall state the  
53 length of such prior service credit, but in no case shall  
54 the prior service credit exceed forty years.

**Sec. 23. Withdrawal and Death Benefits.**—Benefits upon  
2 withdrawal from service prior to retirement under the  
3 provisions of this article shall be as follows:

- 4 (a) A contributor who withdraws from service as a  
5 teacher for any cause other than death or retirement  
6 shall, on demand, be paid his accumulated contributions  
7 plus refund interest up to but not including the date of  
8 his last contribution, if he is then no longer under con-  
9 tract, verbal or otherwise, to serve as a teacher; or  
10 (b) If such contributor has completed twenty years of  
11 total service he may elect to receive at retirement age an  
12 annuity which shall be computed as provided in this  
13 article. The contributor must notify the retirement board  
14 in writing concerning such election.

15 Benefits upon the death of a contributor prior to retire-  
16 ment under the provisions of this article shall be paid as  
17 follows:

18 (1) If the contributor was at least fifty years old, and  
19 if his total service as a teacher was at least twenty-five  
20 years at the time of his death, then the surviving spouse  
21 of the deceased shall be deemed eligible for an annuity  
22 which shall be computed as though the deceased were  
23 actually a retired teacher at the time of death, and had  
24 selected a survivorship option which pays such spouse  
25 the same monthly amount which would have been re-  
26 ceived by the deceased; or

27 (2) If the facts do not permit payment under the pre-  
28 ceding paragraph (1), then the following sum shall be  
29 paid to the refund beneficiary of the contributor: his ac-  
30 cumulated contributions with refund interest up to the  
31 year of his death plus the amount of his accumulated con-  
32 tributions. The latter sum shall emanate from the em-  
33 ployers' accumulation fund.

**Sec. 26. Allowance Upon Retirement.**—Annuitants

2 whose annuities were approved by the retirement board  
3 prior to the effective date of this act shall be paid the  
4 annuities which were approved by the retirement board.

5 Annuities approved by the board after the effective date  
6 of this act shall be computed as provided herein.

7 Upon establishment of eligibility for a retirement  
8 allowance, a member shall be granted an annuity which  
9 shall be the sum of either Plan A or Plan B, whichever  
10 provides the larger annuity.

11 Plan A shall be computed as follows:

12 (a) The actuarial equivalent of the contributions and  
13 deposits of the member in his individual account up to  
14 the time of his retirement, with regular interest.

15 (b) The actuarial equivalent of the contributions of  
16 the employer up to the time of the member's retirement,  
17 which shall equal the sum in subsection (a) of this sec-  
18 tion minus deposits with regular interest on such de-  
19 posits.

20 (c) Where prior service credit has been granted, an  
21 allowance of one and one-half per cent of the member's  
22 average final salary multiplied by the number of years of  
23 prior service credited to him.

24 (d) The actuarial equivalent of the amounts that  
25 would have accumulated under subsections (a) and (b)

26 of this section, if the member had contributed to his in-  
27 dividual account until he was fifty years old, at the an-  
28 nual rate of his past actual contributions, but this sub-  
29 section shall apply only as additional income to members  
30 who qualify for disability retirement before they are  
31 fifty years old.

32 (e) Twelve dollars multiplied by his total service  
33 credit as a teacher.

34 (f) The member shall receive in addition to the allow-  
35 ances under subsections (c) and (d) an amount equal to  
36 six dollars multiplied by his total service credit: *Pro-*  
37 *vided*, That the maximum allowance under this subsec-  
38 tion shall be one hundred and ninety-two dollars: *Pro-*  
39 *vided, however*, That this subsection shall be effective on  
40 and after July first, one thousand nine hundred fifty  
41 seven.

42 (g) Twelve dollars multiplied by the member's total  
43 service credit as a teacher.

44 For the purposes of subsection (c) in Plan A:

45 (1) An allowance for prior service shall in no case  
46 exceed three-fifths of the member's average final salary.

47 (2) Average final salary for this purpose shall in no  
48 case exceed two thousand five hundred dollars, nor shall  
49 it be less than twelve hundred dollars.

50 Plan B shall be computed as follows:

51 (a) One per cent of the member's average salary multi-  
52 plied by his total service credit as a teacher. In this  
53 paragraph "average salary" shall mean the average of  
54 the highest annual salaries received by the member dur-  
55 ing any period of five consecutive years contained within  
56 his last ten years of total service credit: *Provided further,*  
57 That the highest annual salary used in this calculation  
58 shall be seven thousand five hundred dollars: *And pro-*  
59 *vided further,* That the highest annual salary used in this  
60 calculation for members employed by the board of gov-  
61 ernors of West Virginia University, or by the West Vir-  
62 ginia board of education at institutions of higher educa-  
63 tion under its control, shall be four thousand eight hun-  
64 dred dollars.

65 (b) The actuarial equivalent of the deposits of the  
66 member in his individual account up to the time of his  
67 retirement, with regular interest.

68 The disability annuities of all teachers retired for dis-  
69 ability shall be based upon a disability table prepared by  
70 a competent actuary approved by the retirement board.

71 Upon the death of an annuitant who qualified for an  
72 annuity as a surviving spouse or because of permanent  
73 disability, the estate of the deceased or beneficiary desig-  
74 nated for such purpose, shall be paid the difference, if  
75 any, between the member's contributions with regular  
76 interest thereon, and the sum of the annuity payments.

77 All annuities shall be paid in twelve monthly payments.  
78 In computing such monthly payments, fractions of a  
79 cent shall be deemed a cent. Such monthly payments  
80 shall cease with the payment for the month within which  
81 the beneficiary dies, and shall begin with the payment  
82 for the month succeeding the month within which the  
83 annuitant became eligible under this article for the an-  
84 nuity granted; in no case, however, shall an annuitant  
85 receive more than four monthly payments which are ret-  
86 roactive after the board receives his application for an-  
87 nuity.

88 In case the retirement board receives data affecting the

89 approved annuity of a retired teacher, the annuity shall  
90 be changed in accordance with such data, the change  
91 being effective with the payment for the month within  
92 which the board received the new data.

93 An annuity application shall be cancelled immediately  
94 if the applicant dies before the retirement board approves  
95 such application.

96 Any person who has attained the age of sixty-five and  
97 who has served at least twenty-five years as a teacher  
98 prior to July one, one thousand nine hundred forty-one,  
99 shall be eligible for prior service credit and for prior  
100 service pensions as prescribed in this section.

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

*W. Roy Parker*  
Chairman Senate Committee

*Joseph L. Caudall*  
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1963 passage.

*J. Howard Meyer*  
Clerk of the Senate

*A. Blankenship*  
Clerk of the House of Delegates

*Howard W. Carson*  
President of the Senate

*Julius W. Singleton Jr.*  
Speaker House of Delegates

The within approved this the 11<sup>th</sup>  
day of March, 1963.

*W. M. Beaman*  
Governor

