WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 249

(By Mr. [Name] (Sponsor)

PASSED February 25, 1967

In Effect from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-9-67
ENROLLED
FINANCE
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 299
(Mr. Carson [Mr. President] original sponsor)

[Passed February 28, 1967; in effect from passage.]

AN ACT to amend and reenact sections two, fourteen, fifteen, twenty, twenty-one, twenty-seven, twenty-nine and forty-eight, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a contributing retirement system for persons in the employ of the state and affiliated subdivisions of the state.

Be it enacted by the Legislature of West Virginia:

That sections two, fourteen, fifteen, twenty, twenty-one, twenty-seven, twenty-nine and forty-eight, article ten, chapter
five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES’ RETIREMENT ACT.

§5-10-2. 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 unity; 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 jurisdiction is coextensive with one or more counties, cities or towns;

(5) "Participating public employer" means the state of West Virginia, any board, commission, department, institution or spending unit, and shall include any agency created by rule of the supreme court of appeals having full-time employees, which for the purposes of this article shall be deemed a department of state government; 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 regularly as an officer or employee, full time, on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation 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, the clerk of the House of Delegates, the clerk of the state Senate and members of the legislative body of any political subdivision shall be considered to be employees, anything contained herein to the contrary notwithstanding. In any case of doubt as to who is an employee 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;
58 (11) “Prior service” means service rendered prior to
59 July one, one thousand nine hundred sixty-one, to the
60 extent credited a member as provided in this article;
61 (12) “Contributing service” means service rendered
62 by a member from and after the date of his entrance in
63 the retirement system, to the extent credited him as pro-
64 vided in this article;
65 (13) “Credited service” means the sum of a member's
66 prior service credit and contributing service credit stand-
67 ing to his credit as provided in this article;
68 (14) “Compensation” means the remuneration paid a
69 member by a participating public employer for personal
70 services rendered by him to the participating public em-
71 ployer. In the event a member's remuneration is not all
72 paid in money, his participating public employer shall
73 fix the value of the portion of his remuneration which is
74 not paid in money;
75 (15) “Final average salary” means the average of the
76 highest annual compensation received by a member dur-
77 ing any period of five consecutive years of his credited
78 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 compensation received by him during his total years of credited service. Final average salary for members of the Legislature means their actual compensation serving as a member of the Legislature multiplied by four.

(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 of all payments to be made to a retiree or beneficiary of a re-
tirant on account of any annuity, 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;

(22) 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.

§5-10-14. Service credit.

(a) The board of trustees shall credit each member with the prior service and contributing 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
fifteen years immediately preceding the date the political
subdivision became a participating public employer be
credited with prior service.

(b) The board of trustees may grant service credit to
employees of boards of health, the clerk of the House of
Delegates and the clerk of the state Senate who are par-
ticipating members, for service previously credited by
the state teachers' retirement system, and may require a
transfer of the member's contributions to the retirement
system, and may also require a deposit, with interest, of
any withdrawals of contributions.

(c) Court reporters who are acting in an official
capacity, although paid by funds other than the county
court or state auditor, may receive prior service credit
for such time as served in such capacity.
§5-10-15. Military service credit.

In the event a member, who, while employed by a participating public employer, 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 employer, 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 required of him, and (2) he pays to the members' deposit fund the amount he may have withdrawn therefrom, together 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 accum-
And provided further, That any member who, prior to July one, one thousand nine hundred sixty-one, while employed by a public employer who is now a participating public employer or while employed in a position covered under teachers' retirement system, entered the armed forces of the United States during any period of compulsory military service and reentered the employ of a public employer, who is now a participating public employer, or reentered a position covered under teachers' retirement system, such armed service rendered by him, not to exceed five years, shall be credited to him under the provisions of this section.

§5-10-20. Voluntary retirement.

Any member who has attained or attains age sixty years and has five or more years of credit service in force, at least one year of which he was a contributing member of the retirement system, 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.
§5-10-21. Deferred retirement and early retirement.

(a) Any member, who has five or more years of credited service in force, of which at least three years are contributing service, leave the employ 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-two years.

(b) Any member who qualifies for deferred retirement benefits in accordance with subsection (a) of this section, and has ten or more years of credited service in force and who has attained age fifty-five as of the date of his separation may, prior to the effective date of his re-
tirement, but not thereafter, elect to receive the actuarial
equivalent of his deferred retirement annuity as a
reduced annuity commencing on the first day of any
calendar month between his date of separation and his
attainment of age sixty-two years and payable through-
out his life.

§5-10-27. Non-duty death annuities.

(a) Any member who continues in the employ of a
participating public employer on or after the date he ac-
quires ten or more years of credited service, may at any
time prior to the effective date of his retirement, by writ-
ten 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 employer, 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 nomi-
nate a beneficiary as provided in this subsection. Upon
the death of a member who has an option A election 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 preceding 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 nomina-
tion of beneficiary shall thereafter continue in force.
(b) In the event any member continues in the employ
of a participating public employer on or after the date he
acquires ten or more years of credited service, and does
not have an option A election in force as provided in sub-
section (a) of this section, and (1) dies while in the em-
ploy of a participating public employer, and (2) leaves
a widow, or in the case of a female member leaves a
widower whom the board of trustees finds 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 provided for in section twenty-four hereof, and (3) nominated his said widow or widower, as the case may be, as beneficiary.

(c) In the event any member continues in the employ of a participating public employer on or after the date he (1) acquires ten or more years of credited service, and (2) dies without leaving surviving him a spouse, but (3) leaves surviving him an infant child or children, and (4) does not have a beneficiary nominated as provided in subsection (a) of this section, said infant child or children shall be entitled to an annuity to be calculated as follows: The annuity reserve shall be calculated as though said member had retired as of the date of his de
cease and elected a straight life annuity, and the amount of said annuity reserve shall be paid in equal monthly installments to said member's infant child or children until said child or children attain age twenty-one or sooner marry or become emancipated; however, in no
event shall any child or children receive more than two hundred fifty dollars per month each. The said annuity payments shall be computed as of the date of the death of the said member and the amount of said annuity shall remain constant during the period of payment. The annual amount of the annuities payable by this section shall not exceed sixty per cent of said deceased member’s final average salary.

§5-10-29. 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 provided by this article.
(c) The officer or officers responsible for making up
the payrolls for payroll units 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
payroll period, from the date the member enters the re-
tirement 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 re-
tirement 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.

(g) Duly elected members of the Legislature who have elected to become members of the retirement system, pursuant to other sections of this article, shall contribute to the retirement system fourteen per cent of their annual compensation for serving as a member of the Legislature.

§5-10-48. Reemployment after retirement.

In the event a retirant becomes employed by a participating public employer, payment of his annuity shall be suspended during the period of his reemployment. Upon termination of such reemployment, payment of his annuity will be resumed without increase or decrease due to such reemployment, except that nothing herein to the contrary shall prohibit a retirant from accepting temporary employment for a participating employer so
long as he shall not receive compensation in excess of eighteen hundred dollars per year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tempest
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Ned Glasscock
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard Jarvis
President of the Senate

A. S.B.jian
Speaker House of Delegates

The within approved this the 9 day of March, 1967.

Herbert C. Smith
Governor
PRESENTED TO THE
GOVERNOR

Date 3/7/67
Time 1:40 pm