WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1968

ENROLLED

HOUSE BILL No. 324

(By Mr. )

PASSED February 8, 1968

In Effect Thirty days from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-16-68
ENROLLED

House Bill No. 324
(By Mr. Grewe)

[Passed February 8, 1968; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, five, six, seven, eight, nine and ten, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article fifteen by adding thereto a new section, designated section fourteen, all relating to employees' retirement and benefit funds of municipal corporations having a population in excess of fifteen thousand.

Be it enacted by the Legislature of West Virginia:

That sections two, five, six, seven, eight, nine and ten, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article fifteen be further amended by adding thereto a new section, designated section fourteen, to read as follows:
ARTICLE 15. EMPLOYEES' RETIREMENT AND BENEFIT FUND.


For the purpose of this article:

(a) "Prior service credit" shall mean the number of years that the member has been in the service of the city prior to the effective date of the retirement and benefit fund.

(b) "Earned service credits" shall mean the number of years that the member has contributed to the retirement and benefit fund.

(c) "Total service credit" shall mean a total of all prior service credit and all earned service credit.

(d) "Fund" shall mean the employees' retirement and benefit fund.

(e) "Board" shall mean the board of trustees of the employees' retirement and benefit fund.

(f) "Member" shall mean an eligible employee of the city, who is a member of the employees' retirement and benefit fund.

(g) "Total disability in line of duty" shall mean total and permanent disablement from performing any
work for pay, whether for the municipality or other
employer, that shall be caused by injury sustained in
the course of the operations usual to his employment,
and shall include all operations necessary, incident or
appurtenant thereto, or connected therewith, whether
such operations are conducted at the usual place of
employment or elsewhere in connection with or in
relation to his usual and customary employment.

(h) The pronoun "he" shall mean both masculine and
feminine.

(i) "Mayor" shall mean the chief executive officer of
the city.

(j) The term "actuarial equivalent" shall mean an
annuity of equal value to the accumulated contributions,
annuity or benefit when computed upon the basis of
the actuarial tables in use by the fund.

(k) "Salary" shall mean the amount earned by a
member as an employee of a municipality; Provided, That
to and including June thirty, one thousand nine hundred
sixty-seven, the maximum amount of salary to be con-
sidered hereunder for purposes of contributions and in
the computation of benefits, shall be four hundred dol-
lars per month.

(1) "Average salary" shall mean the highest annual
average rate of salary earnable by a member during a
period of five consecutive years within the total service
of the member subject to a maximum amount of four
hundred dollars per month to and including June thirty, one thousand nine hundred sixty-seven, and no
such maximum rate after such date.

§8-15-5. Prior, earned and total service credits; service breaks.

(1) For prior service, each participating employee,
on the effective date, shall be credited, as of such date,
with a prior service credit equal to the period or periods
of service that the member has rendered to the city
prior to the effective date of the fund.

(2) Until June thirty, one thousand nine hundred
sixty-seven, each member shall pay into the fund, six
percent of his salary up to four hundred dollars a month.

After June thirty, one thousand nine hundred sixty-
seven, each member shall contribute six percent of his
actual salary without limitations.
These contributions shall continue until such time as the member has thirty-five years of earned service credit; he shall continue to contribute to the fund until he retires or until he has contributed to the fund for a period of thirty-five years, that is, has thirty-five years of "earned service credit."

A member who has prior service credit shall be entitled to full retirement payment when his prior service credit and his earned service credit totals thirty-five years of total service credit, if he has reached compulsory retirement age, or if he prior thereto becomes so physically or mentally disabled as to render him unfit for the performance of the duties of the position he occupies.

(3) In order to participate one hundred percent in the retirement fund the member must have a total service credit of thirty-five years which may consist of prior service credit or earned service credit, or both. At retirement, because of having reached the compulsory retirement age, the member shall participate in the fund only to the extent of his total service.
A person who is employed by the municipality at the time of the effective date of the fund and becomes a member of the fund shall be entitled to prior service credit even though such prior service was not continuous.

A person who is not employed by the municipality at the time of the effective date of the fund, but who has been employed in the past shall be entitled to prior service credit if he returns to the service within two years from the date of his termination of service and becomes a member of the fund within such two-year period.

A member upon separation from the service shall be entitled to withdraw his contributions without interest in lieu of any benefits to which he may be entitled. If such employee returns to the service of the municipality within two years and becomes a member of the fund, he shall be considered as a new employee and shall have forfeited all prior service credits unless he shall repay to the fund in cash at the time of reemployment the amount of money which he has withdrawn plus four
percent interest compounded annually on said amount during the time he was separated from the service. If however, the break in service of such member is more than two years, he shall not be entitled to any prior service credits nor shall he be entitled to redeposit withdrawals but he shall reenter the fund as a new member.


After the effective date of the fund any member of the fund who has at least ten years of total service credit shall receive a vested right in a retirement payment which he may exercise upon or after attainment of age sixty. When he has reached the age of sixty years he may, at his option, apply for a retirement payment as hereinafter provided.

Retirement for all members of the fund shall be compulsory at the age of sixty-five, subject to the following conditions:

The employee may be permitted to continue in the service if he so desires; if his services are still valuable to the municipality.
Whether an employee's services are valuable at the age of sixty-five shall be determined by the appointing officer of the municipality. If he determines that such services are valuable, his determination must be certified to the board for approval. If the board approves, the employee may continue in the service of the municipality. The appointing officer shall annually certify to the board relative to the ability and competency of all employees over age sixty-five. A member of the fund, upon retirement, shall be entitled to the following retirement payment:

For thirty-five years of total service credits to and including twenty-four years of total service credits, fifty percent of average salary plus one and two-thirds percent of average salary per year of service for each year above twenty-three years.

Twenty-three years of total service credits, fifty percent of average salary: Provided, That if a member has twenty-three years of total service credits he shall be entitled to a minimum retirement payment of one hundred dollars per month.
Twenty-two years of total service credits, forty-nine percent of average salary.

Twenty-one years of total service credits, forty-eight percent of average salary.

Twenty years of total service credits, forty-seven percent of average salary.

Nineteen years of total service credits, forty-five percent of average salary.

Eighteen years of total service credits, forty-three percent of average salary.

Seventeen years of total service credits, forty-one percent of average salary.

Sixteen years of total service credits, thirty-nine percent of average salary.

Fifteen years of total service credits, thirty-six percent of average salary.

Fourteen years of total service credits, thirty-three percent of average salary.

Thirteen years of total service credits, thirty-one percent of average salary.
Eleven years of total service credits, twenty-seven percent of average salary.

Ten years of total service credits, twenty-five percent of average salary.

With the condition that no optional benefit shall be effective if a member dies within thirty days after the filing of an application for retirement payment, a member may elect at least one year prior to retirement to receive a lesser retirement payment, on a joint and last survivor basis, in order to provide, on an actuarial equivalent basis, an annuity to a designated beneficiary under any of the following two options:

Option 1. Upon his death while on retirement, his lesser retirement payment shall be continued throughout the life of and paid to such person having an insurable interest in his life, as he shall have named in a written designation duly acknowledged and filed with the board.

Option 2. Upon his death while on retirement, one-
half of his lesser retirement payment shall be continued
throughout the life of and paid to such person having
an insurable interest in his life as he shall have named in
a written designation duly acknowledged and filed with
the board.

The rate of retirement payment shall be prorated for
any fractional part of the total service credit of an
employee of less than a full year.


(1) If a member becomes disabled by bodily injury
effected independently of all other causes and directly
through accidental means while engaged in the course
of his employment with the city and while in line of
duty, and is totally and permanently disabled from per-
forming any work for pay, whether for the municipality
by which employed at date of disability or any other
employer, he shall be entitled during the time of his
disability to a retirement payment equal to fifty per-
cent of the rate of salary of the member at date of
disability: Provided, That the minimum payment shall
be one hundred dollars per month.
(2) If a member becomes disabled while an employee of the municipality after he has had at least ten years of total service credits, and before he has reached age sixty, but such disability is not incurred in the line of duty during the course of his employment, he shall be entitled to one-half of the retirement payment provided for service retirement during the time of his disability: Provided, That he shall be entitled to a minimum payment of fifty dollars per month and a maximum payment of one hundred dollars per month.

(3) When a member has reached the retirement age or has become so physically or mentally disabled as to render him unfit for the performance of the duties of the position he occupies and who has less than ten years' service credits, he shall be entitled to an annuity which shall be the actuarial equivalent of his total accumulation account at the time of his retirement.

(4) The board of trustees of the employees' retirement and benefit fund shall order a periodic reexamination of members of the fund receiving disability retirement payment prior to age sixty and if the disability

(1) The beneficiaries of a member who dies after he has had ten or more years' total service credits, as herein-after described, shall be entitled, for a period not to exceed ten years, to a retirement payment in accordance to the table contained in section six of this article. The payments shall be made to the person having an insurable interest in his life, as he shall have nominated in a designation filed with the board. If the beneficiary is a widow, the marriage must have occurred at least one year prior to the death of the member in order that the widow may be eligible for a benefit under this paragraph.

Upon death of a member prior to the completion of ten years of total service, the designated beneficiary of the member, or the estate of the member, shall be entitled to a return of his total contributions to the fund, without interest.

(2) Death benefits after retirement shall be the same as death benefits before retirement except a widow shall
20 not be entitled to benefits unless she was married to the
21 member before the date of his retirement. Payment shall
22 be made for the remaining period of ten years dating from
23 the date of the member's retirement. If a widow of a
24 member remarries, her retirement payments shall be
25 terminated and shall not be resumed upon subsequent
26 change in her marital status.
27 (3) If a member dies as a result of personal injury
28 or disease arising out of and in the course of his employ-
29 ment with the city, or as the result of total disability
30 in line of duty, the surviving widow shall be entitled
31 during her widowhood to a benefit equal to thirty-three
32 and one-third percent of the final rate of salary of the
33 member, subject to the maximum rate herein prescribed,
34 but not to exceed one hundred and twenty-five dollars
35 per month. In the event there be no widow, or if re-
36 marriage occurs before the youngest child attains age
37 eighteen, each child shall be entitled to twenty percent of
38 the member's final rate of salary, subject to a total pay-
39 ment to all children of fifty percent of salary, or one
40 hundred twenty-five dollars per month, whichever is
the lesser. If there be no widow or minor children, the dependent father and/or mother, as the board shall determine, shall each be entitled to one-sixth of the deceased employee's final salary, but the payment to either parent shall not exceed fifty dollars per month.


1 The council or other governing body shall annually provide sufficient funds in the budget, on an actuarially funded basis, to provide for the funded requirements of the employees' retirement and benefit fund for current service of the employees over and above the amount contributed by the members, plus an amount to pay the cost of administration of the fund.

2 The municipality shall also contribute an amount required, at three and one-half percent interest per annum, to amortize, over a period not to exceed forty years from July one, one thousand nine hundred sixty-seven, any unfunded accrued liability at that date.

§8-15-10. Investment of funds.

1 The board shall keep as an available sum for the purpose of making payments for retirement and other
benefits and administration expense an amount estimated
to meet such payments for a period not to exceed ninety
days. It shall have full power in its sole discretion to
invest and reinvest any moneys received by it in the
following types of securities: (a) Direct obligations of
the United States government or of the state of West
Virginia; (b) direct obligations of any county, school
district, or any municipality in the state of West Vir-
ginia; (c) bonds or debentures of any utility corpora-
tion, industrial corporation or railroad corporation or-
organized under the laws of any state of the United States,
rated "A" or better by any two security rating concerns
provided interest shall have been paid by the corpora-
tion on its indebtedness for at least the ten years last
past; and (d) federally insured mortgages under sections
two hundred three and two hundred seven of the national
housing act.

§8-15-14. Action by city required before new provisions are
applicable.

Notwithstanding any other provision in this article
to the contrary, the provisions of this article as amended
and reenacted at the regular session of the Legislature
in the year one thousand nine hundred sixty-nine shall not be applicable to any fund established by any city prior to the effective date of this section, unless and until such city shall by ordinance provide for the application thereof. In the absence of any such ordinance, any such fund shall be governed and controlled by and administered in accordance with the provisions of this article as they existed prior to the effective date of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tempest
Chairman Senate Committee

Clayton L. Davidson
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. Howard McCreer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard Carson
President of the Senate

H. Faber White
Speaker of the House of Delegates

The within approved this the 14th day of February, 1968.

Herbert C. Smith
Governor
PRESENTED TO THE
GOVERNOR

Date 2/13/68
Time 2:20 P.M.