WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1970

ENROLLED

HOUSE BILL No. 678

(By Mr. Speaker, Mr. Bowers, and Mr. Locke)

PASSED February 13, 1970

In Effect July 1, 1970

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 2-18-70
AN ACT to amend and reenact sections three, fourteen, sixteen and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions, contributions taken from members, transfer of appropriations and computation of retirement allowance for certain annuitants.

Be it enacted by the Legislature of West Virginia:

That sections three, fourteen, sixteen 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:
ARTICLE 7A. STATE TEACHERS' RETIREMENT SYSTEM.


"Teacher" shall include the following persons, if regularly employed for at least half-time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) principals; (c) public school librarians; (d) county superintendents of schools and assistant county superintendents of schools; (e) any county school attendance director holding a West Virginia teacher's certificate; (f) the executive secretary of the retirement board; (g) members of the research, extension, administrative, or library staffs of the public schools; (h) the State superintendent of schools, heads, and assistant heads of the divisions under his supervision, or any other employee thereunder performing services of an educational nature; (i) employees of the state board of education who are performing services of an educational nature; (j) any person employed in a nonteaching capacity by the state board of education, the board of governors of West Virginia University, any county board of education, the state department of education or the
teachers' retirement board, if such person was formerly employed as a teacher in the public schools; (k) all classroom teachers, principals and educational administrators in schools under the supervision of the state commissioner of public institutions; (l) employees of the state board of school finance if such person was formerly employed as a teacher in the public schools.

"Members of the administrative staff of the public schools" shall include deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

"Members of the extension staff" of the public schools shall include every agricultural agent, boys' and girls' club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

"Retirement system" shall mean the state teachers' retirement system provided for in this article.

"Present teacher" shall mean any person who was a teacher within the twenty-seven years beginning July first, one thousand nine hundred thirty-four, and whose
membership in the retirement system has been continuous.

"New entrant" shall mean a teacher who is not a present teacher.

"Present member" shall mean a present teacher who is a member of the retirement system.

"Total service" shall mean all service as a teacher while a member of the retirement system since last becoming a member and, in addition thereto, his credit for prior service, if any.

"Prior service" shall mean all service as a teacher completed prior to July first, one thousand nine hundred forty-one, and all service of a present member who was employed as a teacher, and did not contribute to retirement account because he was legally ineligible for membership during such service.

"Average final salary" shall mean the average annual salary earned as a teacher during the last fifteen years of prior service, including military service, as provided herein, or if prior service is less than fifteen years, the average annual salary for that period. If the records for
determining each annual salary needed cannot reason-
ably be established by the retirement board, then the
term shall mean the average annual salary of the teacher
for years for which records are available.

“Accumulated contributions” shall mean all deposits
and all deductions from the earnable compensation of
a contributor minus the total of all supplemental fees
deducted from his compensation.

“Regular interest” shall mean interest at three per-
cent compounded annually, or a higher earnable rate
if approved by the retirement board.

“Refund interest” shall mean the interest on refunds
of the accumulated contributions and deposits payable
to former members or to the beneficiaries of deceased
members, as provided in this article. The rate for re-
fund interest shall be the average annual rate of interest,
calculated to one decimal place, earned on retirement
board investments in effect at the end of the fiscal year
for which the interest is due, according to the sworn
statement of the fund custodian required by section
nineteen of this article.
“Employer” shall mean the agency of and within the state which has employed or employs a member.

“Contributor” shall mean a member of the retirement system who has an account in the teachers accumulation fund.

“Beneficiary” shall mean the recipient of annuity payments made under the retirement system.

“Refund beneficiary” shall mean the estate of a deceased contributor, or such person as he shall have nominated as beneficiary of his contributions by written designation duly executed and filed with the retirement board.

“Earnable compensation” shall mean the full compensation actually received by members for service as teachers whether or not a part of such compensation is received from other funds, federal or otherwise, than those provided by the State or its subdivisions. Allowances from employers from maintenance of members shall be deemed a part of earnable compensation of such members.
"Annuities" shall mean the annual retirement payments for life granted beneficiaries in accordance with this article.

"Member" shall mean a member of the retirement system.

"Public schools" shall mean all publicly supported schools, including normal schools, colleges, and universities in this state.

"Deposit" shall mean a voluntary payment to his account by a member. The masculine gender shall be construed so as to include the feminine. Age in excess of seventy years shall be deemed to be seventy years.

§18-7A-14. Contributions by members.

At the end of each month every member of the retirement system shall contribute six percent of his monthly earnable compensation to the retirement board:

Provided, That in no case shall the contribution of any member employed by the West Virginia board of regents at an institution of higher education under its control, exceed two hundred eighty-eight dollars in any fiscal year.
Such contributions shall be deemed to include the annual supplementary fee of the contributor, determined as hereinafter provided, which fee shall be used to help finance the additional retirement benefit provided for in subdivision (e) of Plan A of section twenty-six of this article. Annually, the contributions of each member, minus his supplementary fee, shall be credited to his account in the teachers accumulation fund. The contributions shall be deducted from the salaries of the members as herein prescribed, and every member shall be deemed to have given his consent to such deductions. No deductions, however, shall be made from the earnable compensation of any teacher who retired because of age or service, and then resumed service as a teacher.

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

The aggregate of employer contributions, due and payable under this article, shall equal annually the total deductions from the earnable compensation of members required by this section. All employer contributions shall be credited to the employers accumulation fund, from which fund an amount equaling annually the supplementary fees of members shall be transferred to the benefit fund.

Payment by an employer to a member of the sum specified in the employment contract minus the amount of the employee's deductions shall be deemed to be a full discharge of the employer's contractual obligation as earnable compensation.

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


1 The retirement board, on receipt of contributions from teachers deducted and remitted by employers as provided in the preceding section, shall make requisition on the state auditor for an amount equaling seventy-five percent of such contributions. On receipt of the requisitions duly certified, the state auditor shall transfer the amount so requisitioned from the general state revenue fund to the employers' accumulation fund, such transfers not to exceed the amount appropriated for the employers' accumulation fund.

11 At the beginning of each quarter the governor shall transfer to the benefit fund one-fourth of the annual appropriations therefor.

1 Annuitants whose annuities were approved by the retirement board prior to July first, one thousand nine hundred sixty-three shall be paid the annuities which were approved by the retirement board. Annuities approved by the board after the effective date of this article shall be computed as provided herein.

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

3 Plan A shall be computed as follows:

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

5 where prior service credit has been granted, an allowance of one and one-half percent of the mem-
ber's average final salary multiplied by the number of years of prior service credited to him;

(d) The actuarial equivalent of the amounts that would have accumulated under subdivisions (a) and (b) of Plan A, if the member had contributed to his individual account until he was fifty years old, at the annual rate of his past actual contributions, but this subdivision shall apply only as additional income to members who qualify for disability retirement before they are fifty years old;

(e) Twelve dollars multiplied by his total service credit as a teacher;

(f) The member shall receive in addition to the allowances under subdivisions (c) and (d) an amount equal to six dollars multiplied by his total service credit:

Provided, That the maximum allowance under this subdivision shall be one hundred and ninety-two dollars:

Provided, however, That this subdivision shall be effective on and after July first, one thousand nine hundred fifty-seven;
(g) Twelve dollars multiplied by the member's total service credit as a teacher.

For the purpose of subdivision (c) in Plan A:

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

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

Plan B shall be computed as follows:

(a) Two percent of the member's average salary multiplied by his total service credit as a teacher. In this paragraph "average salary" shall mean the average of the highest annual salaries received by the member during any five years contained within his last fifteen years of total service credit: Provided, That the highest annual salary used in this calculation for members employed by the West Virginia board of regents at institutions of higher education under its control, shall be four thousand eight hundred dollars;

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

The disability annuities of all teachers retired for disability shall be based upon a disability table prepared by a competent actuary approved by the retirement board.

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

All annuities shall be paid in twelve monthly payments. In computing such monthly payments, fractions of a cent shall be deemed a cent. Such monthly payments shall cease with the payment for the month within which the beneficiary dies, and shall begin with the payment for the month succeeding the month within which the annuitant became eligible under this article for the annuity granted; in no case, however, shall an annuitant receive more than four monthly payments.
which are retroactive after the board receives his application for annuity.

In case the retirement board receives data affecting the approved annuity of a retired teacher, the annuity shall be changed in accordance with such data, the change being effective with the payment for the month within which the board received the new data.

An annuity application shall be canceled immediately if the applicant dies before the retirement board approves such application.

Any person who has attained the age of sixty-five and who has served at least twenty-five years as a teacher prior to July one, one thousand nine hundred forty-one, shall be eligible for prior service credit and for prior service pensions as prescribed in this section.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

William Tampol
Chairman Senate Committee

Clayton C. Davison
Chairman House Committee

Originated in the House.

Takes effect July 1, 1970.

J.T. Homma
Clerk of the Senate

J.A. Blankenship
Clerk of the House of Delegates

Lloyd Jackson
President of the Senate

J.R. Burinsky
Speaker House of Delegates

The within __________________ this the ________
day of __________________, 1970.

Archibald Shreve Jr.
Governor
PRESENTED TO THE GOVERNOR

Date 2/16/70

Time 2:40 p.m.