

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1970

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

FEB 12 9 39 AM '70

RECEIVED

ENROLLED

Com. Sub. for

SENATE BILL NO. 111

(By Mr. Jackson (Mr. President) and
Mr. Carignan original sponsors)

PASSED Feb. 6, 1970

In Effect from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 2-12-70

///

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 111

(MR. JACKSON (MR. PRESIDENT) AND MR. CARRIGAN,
original sponsors)

[Passed February 6, 1970; effective from passage.]

Handwritten:
2/11/70
JAN ACT

~~A BILL~~ to amend and reenact sections two, fourteen, twenty-two, twenty-five and thirty-one, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions of words used in the West Virginia Public Employees Retirement Act; service credit; retirement annuity; disability retirement; and employers' contributions.

Be it enacted by the Legislature of West Virginia:

That sections two, fourteen, twenty-two, twenty-five and thirty-one, 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 RETIRE-
MENT ACT.**

§5-10-2. Definitions.

1 The following words and phrases as used in this article,
2 unless a different meaning is clearly indicated by the con-
3 text, shall have the following meanings:

4 (1) "State" means the state of West Virginia;

5 (2) "Retirement system" or "system" means the West
6 Virginia public employees retirement system created and
7 established by this article;

8 (3) "Board of trustees" or "board" means the board of
9 trustees of the West Virginia public employees retirement
10 system;

11 (4) "Political subdivision" means the state of West Vir-
12 ginia, a county, city or town in the state; a school corpora-
13 tion or corporate unit; any separate corporation or instru-
14 mentality established by one or more counties, cities or
15 towns, as permitted by law; any corporation or instru-
16 mentality supported in most part by counties, cities or
17 towns; any public corporation charged by law with the
18 performance of a governmental function and whose juris-

19 diction is coextensive with one or more counties, cities or
20 towns, any agency or organization established by, or ap-
21 proved by the department of mental health for the provi-
22 sion of community health or mental retardation services,
23 and which is supported in part by state, county or munici-
24 pal funds;

25 (5) "Participating public employer" means the state of
26 West Virginia, any board, commission, department, insti-
27 tution or spending unit, and shall include any agency
28 created by rule of the supreme court of appeals having
29 full-time employees, which for the purposes of this article
30 shall be deemed a department of state government; and
31 any political subdivision in the state which has elected to
32 cover its employees, as defined in this article, under the
33 West Virginia public employees retirement system;

34 (6) "Employee" means any person who serves regularly
35 as an officer or employee, full time, on a salary basis,
36 whose tenure is not restricted as to temporary or provi-
37 sional appointment, in the service of, and whose compen-
38 sation is payable in whole or in part by any political sub-
39 division, or an officer or employee whose compensation is

40 calculated on a daily basis and paid monthly or on comple-
41 tion of assignment, including technicians and other per-
42 sonnel employed by the West Virginia national guard
43 whose compensation in whole or in part is paid by the
44 federal government: *Provided*, That members of the state
45 Legislature, the clerk of the House of Delegates, the clerk
46 of the state Senate, members of the legislative body of any
47 political subdivision and judges of the state court of claims
48 shall be considered to be employees, anything contained
49 herein to the contrary notwithstanding. In any case of
50 doubt as to who is an employee within the meaning of this
51 article the board of trustees shall decide the question;

52 (7) "Member" means any person who is included in the
53 membership of the retirement system;

54 (8) "Retirant" means any member who retires with an
55 annuity payable by the retirement system;

56 (9) "Beneficiary" means any person, except a retirant,
57 who is entitled to, or will be entitled to, an annuity or
58 other benefit payable by the retirement system;

59 (10) "Service" means personal service rendered to a
60 participating public employer by an employee, as defined

61 in this article, of a participating public employer;

62 (11) "Prior service" means service rendered prior to
63 July one, one thousand nine hundred sixty-one, to the
64 extent credited a member as provided in this article;

65 (12) "Contributing service" means service rendered by
66 a member from and after the date of his entrance in the
67 retirement system, to the extent credited him as provided
68 in this article;

69 (13) "Credited service" means the sum of a member's
70 prior service credit and contributing service credit stand-
71 ing to his credit as provided in this article;

72 (14) "Compensation" means the remuneration paid a
73 member by a participating public employer for personal
74 services rendered by him to the participating public em-
75 ployer. In the event a member's remuneration is not all
76 paid in money, his participating public employer shall fix
77 the value of the portion of his remuneration which is not
78 paid in money;

79 (15) "Final average salary" means the average of the
80 highest annual compensation received by a member dur-
81 ing any period of three consecutive years of his credited

82 service contained within his ten years of credited service
83 immediately preceding the date his employment with a
84 participating public employer last terminated. If he has
85 less than five years of credited service, his final average
86 salary shall be the average of the annual rate of compen-
87 sation received by him during his total years of credited
88 service. Final average salary for members of the Legisla-
89 ture means their actual compensation serving as a mem-
90 ber of the Legislature multiplied by eight; plus any other
91 compensation they receive from any other participating
92 public employer including the state of West Virginia;

93 (16) "Accumulated contributions" means the sum of all
94 amounts deducted from the compensations of a member
95 and credited to his individual account in the members'
96 deposit fund, together with regular interest thereon;

97 (17) "Regular interest" means such rate or rates of
98 interest per annum, compounded annually, as the board of
99 trustees shall from time to time adopt;

100 (18) "Annuity" means an annual amount payable by
101 the retirement system throughout the life of a person. All

102 annuities shall be paid in equal monthly installments, us-
103 ing the upper cent for any fraction of a cent;

104 (19) "Annuity reserve" means the present value of all
105 payments to be made to a retirant or beneficiary of a re-
106 tirant on account of any annuity, computed upon the basis
107 of such mortality and other tables of experience, and
108 regular interest, as the board of trustees shall from time
109 to time adopt;

110 (20) "Retirement" means a member's withdrawal from
111 the employ of a participating public employer with an an-
112 nuity payable by the retirement system;

113 (21) "Actuarial equivalent" means a benefit of equal
114 value computed upon the basis of such mortality table and
115 regular interest as the board of trustees shall from time
116 to time adopt;

117 (22) The masculine gender shall include the feminine
118 gender, and words of the singular number with respect to
119 persons shall include the plural number, and vice versa.

§5-10-14. Service credit.

1 (a) The board of trustees shall credit each mem-
2 ber with the prior service and contributing service to

3 which he is entitled based upon such rules and regu-
4 lations as the board of trustees shall from time to time
5 adopt: *Provided*, That in no case shall less than ten
6 days of service rendered by a member in any calendar
7 month be credited as a month of service; nor shall less
8 than ten months of service rendered in any calendar
9 year be credited as a year of service; nor shall more
10 than one year of service be credited any member for
11 all service rendered by him in any calendar year; nor
12 shall any member who was not in the employ of a
13 political subdivision within a period of twenty-five years
14 immediately preceding the date the political subdivision
15 became a participating public employer be credited with
16 prior service.

17 (b) The board of trustees shall grant service credit
18 to employees of boards of health, the clerk of the House
19 of Delegates and the clerk of the state Senate, or to
20 any former and present member of the state teachers
21 retirement system who have been contributing members
22 for more than three years, for service previously credited
23 by the state teachers retirement system, and shall re-

24 quire the transfer of the member's contributions to the
25 retirement system, and shall also require a deposit, with
26 interest, of any withdrawals of contributions any time
27 prior to said member's retirement. Repayment of with-
28 drawals shall be as directed by the board of trustees.

29 (c) Court reporters who are acting in an official ca-
30 pacity, although paid by funds other than the county
31 court or state auditor, may receive prior service credit
32 for such time as served in such capacity.

§5-10-22. Retirement annuity.

1 Upon a member's retirement, as provided in this
2 article, he shall receive a straight life annuity equal to one
3 and five-tenths percent of his final average salary mul-
4 tiplied by the number of years, and fraction of a year,
5 of his credited service in force at the time of his re-
6 tirement: *Provided*, That after March one, one thou-
7 sand nine hundred seventy, all members retired and
8 all members retiring shall receive a straight life an-
9 nuity equal to two percent of his final average sal-
10 ary multiplied by the number of years, and frac-
11 tion of a year, of his credited service in force at the

12 time of his retirement. In either event, upon his re-
13 tirement he shall have the right to elect an option pro-
14 vided for in section twenty-four hereof. All annuity
15 payments shall commence effective the first of the
16 month following the month in which a member retires
17 or a member dies leaving a beneficiary entitled to benefits
18 and shall continue to the end of the month in which
19 said retirant or beneficiary dies, and said annuity pay-
20 ments shall not be prorated for any portion of a month
21 in which a member retires or retirant or beneficiary
22 dies.

23 Any member of the Legislature who retires, or former
24 member who has been retired under this article, shall
25 receive an annuity as provided herein based upon the
26 salary at the time of his retirement, which annuity
27 shall be changed from time to time during the period
28 of his retirement and shall be changed proportionately
29 when and if the compensation of members of the Leg-
30 islature is changed: *Provided further*, That all former
31 members of the Legislature, now retired, shall, effective
32 March one, one thousand nine hundred seventy, have

33 their annuity readjusted in accordance with section (2)
34 subdivision (15) of this article, as amended.

§5-10-25. Disability retirement.

1 (a) Upon the application of a member or former
2 member of the retirement system, or his present or
3 past employing authority, any member or former mem-
4 ber who (1) is or was in the employ of a participating
5 public employer, (2) has ten or more years of credited
6 service, and (3) becomes totally and permanently in-
7 capacitated for employment, by reason of a personal
8 injury or disease, may be retired by the board of trus-
9 tees if after a medical examination of the said member
10 or former member, made by or under the direction of
11 a medical committee consisting of two physicians, one
12 of whom shall be named by the board, and one by the
13 said member or former member, the said medical com-
14 mittee reports, in writing, to the board that (1) the
15 said member or former member is physically or mentally
16 totally incapacitated for employment, (2) that such in-
17 capacity will probably be permanent, and (3) that the
18 said member or former member should be retired. In

19 the event the two above-mentioned physicians do not
20 agree in their findings, then the board of trustees may,
21 at its discretion, appoint a third physician to examine
22 said member or former member and, based upon the
23 third physician's report in writing, the board may retire
24 said member or former member.

25 (b) A member with less than ten years of credited
26 service shall have the service requirement provided for
27 in subsection (a) above waived in the event (1) the
28 board of trustees finds his total and permanent disability
29 to be the natural and proximate result of a personal
30 injury or disease arising out of and in the course of his
31 actual performance of duty in the employ of a partici-
32 pating public employer, and (2) he is in receipt of work-
33 men's compensation on account of such physical or
34 mental disability.

35 (c) For those members or former members retiring and
36 those members retired, as of March one, one thousand nine
37 hundred seventy, he shall receive a straight life annuity
38 computed according to section twenty-two hereof and
39 he shall have the right to elect an option provided for

40 in section twenty-four hereof: *Provided, however,* That
41 his straight life annuity payable to his attainment of
42 age sixty-five years shall not be less than fifty percent
43 of his final average salary; and his said straight life
44 annuity payable from and after his attainment of age
45 sixty-five years shall not be less than twenty percent
46 of his final average salary: *Provided further,* That his
47 said annuity shall be subject to section twenty-six hereof.

§5-10-31. Employers' accumulation fund; employers' contributions.

1 (a) The employers' accumulation fund is hereby cre-
2 ated. It shall be the fund in which shall be accumulated
3 the contributions made by the participating public em-
4 ployers to the retirement system, and from which trans-
5 fers shall be made as provided in this section.

6 (b) Based upon the provisions of section thirteen of
7 this article, the participating public employers' contribu-
8 tions to the retirement system shall be determined, ac-
9 cording to subdivisions one, two, three and four below,
10 for the state as the state division, and for the other par-

11 ticipating public employers as the public employer divi-
12 sion.

13 (1) The participating public employers' contributions
14 for members' current service shall be a percent of the
15 members' annual compensation which will equal an
16 amount which if paid annually by the participating public
17 employers during the members' future service will be
18 sufficient to provide, at the time annuities will become
19 payable on their account, the difference between the an-
20 nuity reserves for the future service portions of the an-
21 nuities to be paid and the present value of the members'
22 future net contributions.

23 (2) The participating public employers' contributions
24 for members' accrued service shall be a percent of the
25 members' annual compensation which will equal an
26 amount which if paid annually by the participating public
27 employers over a period of years, to be determined by
28 the board of trustees, will amortize, at regular interest,
29 the unfunded annuity reserves for the accrued portions
30 of the annuities to be paid on account of members.

31 (3) The participating public employers' contributions
32 for annuities being paid retirants and beneficiaries shall
33 be a percent of the members' annual compensations which
34 will equal an amount which if paid annually by the par-
35 ticipating public employers over a period of years, to be
36 determined by the board of trustees, will amortize, at
37 regular interest, the unfunded annuity reserves for an-
38 nnuities being paid retirants and beneficiaries.

39 (4) In no year shall the total of the contributions, pro-
40 vided for in subdivisions one, two and three above, to
41 be paid by any participating public employer exceed ten
42 and five-tenths percent of the total payroll for the mem-
43 bers in the employ of such participating public employer
44 for the preceding fiscal year.

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

Williamina Tompa
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage:

Thomas M. Es
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Leopold Jackson
President of the Senate

Jim F. Bessley
Speaker House of Delegates

The within *approved* this the *11th*
day of *February*, 1970.

Arch A. Shure Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/6/70

Time 4:25 p.m.