WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED

SENATE BILL NO. 173

(By Mr. Nelson and Mr. Fleming)

PASSED March 9, 1975

In Effect July 1, 1975
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Senate Bill No. 173
(By Mr. Nelson and Mr. Fanning)

[Passed March 9, 1975; in effect July 1, 1975.]

AN ACT to amend and reenact sections three, twenty-six and thirty-five, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section thirty-five-a, all relating to general definitions, definitions of average salary and to prior service credit for nonteaching members and former members of the state teachers retirement system and computation of annuities.

Be it enacted by the Legislature of West Virginia:

That sections three, twenty-six and thirty-five, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section thirty-five-a, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.
1 "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) 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 per-
forming services of an educational nature; (j) any person
employed in a nonteaching capacity by the state board of
education, the West Virginia board of regents, any county
board of education, the state department of education or
the teachers retirement board, if such person was for-
merly employed as a teacher in the public schools; (k)
all classroom teachers, principals and educational adminis-
trators in schools under the supervision of the state com-
missioner of public institutions; (l) employees of the state
board of school finance if such person was formerly em-
ployed as a teacher in the public schools.

“Members of the administrative staff of the public
school” shall include deans of instruction, deans of men,
deans of women, and financial and administrative secre-
taries.

“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 exten-
sion staff whose work is not primarily stenographic, cler-
ical or secretarial.

“Retirement system” shall mean the state teachers re-
tirement system provided for in this article.

“Present teacher” means any person who was a teacher
within the thirty-five years beginning July one, one
thousand nine hundred thirty-four, and whose member-
ship 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 com-
pleted 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 retire-
ment 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 need cannot reasonably 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 percent compounded annually, or a higher earnable rate if approved by the retirement board.

"Refund interest" shall mean interest compounded annually at a rate of three percent.

"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 state 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 for 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.


Annuitants whose annuities were approved by the retirement board effective before July first, one thousand nine hundred seventy, shall be paid the annuities which were approved by the retirement board, subject to the supplemental benefits authorized in this article.

Annuites approved by the board effective after June thirty, one thousand nine hundred seventy, shall be computed as provided herein.

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.

Plan A shall be computed as follows:

(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;

(b) The actuarial equivalent of the contributions of the employer up to the time of the member's retirement, which shall equal the sum in subdivision (a) of Plan A minus deposits with regular interest on such deposits;

(c) Where prior service credit has been granted, an allowance of one and one-half percent of the member'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 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; and any teacher who retired before July one, one thousand nine hundred seventy-four and who was employed for fifteen years or more by a county board of education and who, though a regular full-time employee as defined in this article, shall have performed part-time services as a teacher and shall have received less than a full salary for such part-time services, over a period of two or more years, during which said teacher was employed by the board
of education for more than one hundred eighty days each year and was not otherwise employed, shall be permitted to combine the salaries into increments of two years, for the purpose of determining average salary, but such increment shall not exceed the amount which would have been payable for one year had the teacher been employed on a full-time basis, and no more than three such combinations may be used in computing the average salary: 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.
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.

§18-7A-35. Coverage for nonteaching employees; prior service credit.

Nonteaching employees shall mean all persons, except teachers, regularly employed for full-time service by the following educational agencies: (a) Any county board of education, (b) the state board of education, (c) the West Virginia board of regents; (d) and the teachers' retirement board.

Such nonteaching employees shall be entitled to all the rights, privileges and benefits provided for teachers by this article, upon the same terms and conditions as are herein prescribed for teachers. Any member who was employed as a regular full-time employee in a nonteaching capacity by a board of education, school principal or school administrator, prior to the time he became eligible for membership in the state teachers retirement system, shall be granted prior service credit for such service upon making application to the retirement board and providing satisfactory evidence of such service.

§18-7A-35a. Prior service credit for former members of the state teachers retirement system employed in a nonteaching capacity.

Any former member of the state teachers retirement system who was employed as a regular full-time employee in a nonteaching capacity by a board of education, school principal or school administrator, prior to the time he became eligible for membership in the state teachers retirement system, shall be eligible for prior service credit for such service. Upon making application to the retirement board and providing satisfactory evidence, prior service credit shall be granted and his retirement allowance shall be recomputed and adjusted to include such prior service credit. Any increased retirement allowance resulting from the provisions of this section shall not be retroactive.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence L. Christians Jr.  
Chairman House Committee

Originated in the Senate.

In effect July 1, 1975.

The within __________________________ this the __________ day of __________________________, 1975.

Governor
PRESENTED TO THE
GOVERNOR

To 3/18/75
Le 4:55 P.M.