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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975



ENROLLED

SENATE BILL NO. 173

(By Mr. *Nelson and Mr. Frazier*)



PASSED *March 9,* 1975

In Effect *July 1, 1975* ~~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.

§18-7A-3. Definitions.

1 "Teacher" shall include the following persons, if regu-
2 larly employed for at least half-time service: (a) Any
3 person employed for instructional service in the public
4 schools of West Virginia; (b) principals; (c) public school
5 librarians; (d) superintendents of schools and assistant
6 county superintendents of schools; (e) any county school
7 attendance director holding a West Virginia teacher's cer-
8 tificate; (f) the executive secretary of the retirement
9 board; (g) members of the research, extension, administra-
10 tive or library staffs of the public schools; (h) the state
11 superintendent of schools, heads and assistant heads of the
12 divisions under his supervision, or any other employee

13 thereunder performing services of an educational nature;
14 (i) employees of the state board of education who are per-
15 forming services of an educational nature; (j) any person
16 employed in a nonteaching capacity by the state board of
17 education, the West Virginia board of regents, any county
18 board of education, the state department of education or
19 the teachers retirement board, if such person was for-
20 merly employed as a teacher in the public schools; (k)
21 all classroom teachers, principals and educational adminis-
22 trators in schools under the supervision of the state com-
23 missioner of public institutions; (l) employees of the state
24 board of school finance if such person was formerly em-
25 ployed as a teacher in the public schools.

26 "Members of the administrative staff of the public
27 school" shall include deans of instruction, deans of men,
28 deans of women, and financial and administrative secre-
29 taries.

30 "Members of the extension staff" of the public schools
31 shall include every agricultural agent, boys' and girls'
32 club agent, and every member of the agricultural exten-
33 sion staff whose work is not primarily stenographic, cleri-
34 cal or secretarial.

35 "Retirement system" shall mean the state teachers re-
36 tirement system provided for in this article.

37 "Present teacher" means any person who was a teacher
38 within the thirty-five years beginning July one, one
39 thousand nine hundred thirty-four, and whose member-
40 ship in the retirement system has been continuous.

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

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

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

49 "Prior service" shall mean all service as a teacher com-
50 pleted prior to July first, one thousand nine hundred
51 forty-one, and all service of a present member who was
52 employed as a teacher, and did not contribute to retire-

53 ment account because he was legally ineligible for mem-
54 bership during such service.

55 "Average final salary" shall mean the average annual
56 salary earned as a teacher during the last fifteen years of
57 prior service, including military service, as provided
58 herein, or if prior service is less than fifteen years, the
59 average annual salary for that period. If the records for
60 determining each annual salary need cannot reasonably
61 be established by the retirement board, then the term
62 shall mean the average annual salary of the teacher for
63 years for which records are available.

64 "Accumulated contributions" shall mean all deposits
65 and all deductions from the earnable compensation of a
66 contributor minus the total of all supplemental fees de-
67 ducted from his compensation.

68 "Regular interest" shall mean interest at three percent
69 compounded annually, or a higher earnable rate if ap-
70 proved by the retirement board.

71 "Refund interest" shall mean interest compounded an-
72 nually at a rate of three percent.

73 "Employer" shall mean the agency of and within the
74 state which has employed or employs a member.

75 "Contributor" shall mean a member of the retirement
76 system who has an account in the teachers accumulation
77 fund.

78 "Beneficiary" shall mean the recipient of annuity
79 payments made under the retirement system.

80 "Refund beneficiary" shall mean the ^{state} of a de-
81 ceased contributor, or such person as he shall have nomi-
82 nated as beneficiary of his contributions by written desig-
83 nation duly executed and filed with the retirement board.

84 "Earnable compensation" shall mean the full compen-
85 sation actually received by members for service as
86 teachers whether or not a part of such compensation is
87 received from other funds, federal or otherwise, than
88 those provided by the state or its subdivisions. Allowances
89 from employers for maintenance of members shall be
90 deemed a part of earnable compensation of such members.

91 "Annuities" shall mean the annual retirement payments
92 for life granted beneficiaries in accordance with this
93 article.

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

96 "Public schools" shall mean all publicly supported
97 schools, including normal schools, colleges, and univer-
98 sities in this state.

99 "Deposit" shall mean a voluntary payment to his ac-
100 count by a member.

101 The masculine gender shall be construed so as to include
102 the feminine.

103 Age in excess of seventy years shall be deemed to be
104 seventy years.

§18-7A-26. Computation of annuities.

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

6 Annuities approved by the board effective after June
7 thirty, one thousand nine hundred seventy, shall be com-
8 puted as provided herein.

9 Upon establishment of eligibility for a retirement allow-
10 ance, a member shall be granted an annuity which shall
11 be the sum of either Plan A or Plan B, whichever provides
12 the larger annuity.

13 Plan A shall be computed as follows:

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

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

21 (c) Where prior service credit has been granted, an
22 allowance of one and one-half percent of the member's
23 average final salary multiplied by the number of years
24 of prior service credited to him;

25 (d) The actuarial equivalent of the amounts that
26 would have accumulated under subdivisions (a) and

27 (b) of Plan A, if the member had contributed to his
28 individual account until he was fifty years old, at the
29 annual rate of his past actual contributions, but this sub-
30 division shall apply only as additional income to mem-
31 bers who qualify for disability retirement before they
32 are fifty years old;

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

35 (f) The member shall receive in addition to the allow-
36 ances under subdivisions (c) and (d) an amount equal
37 to six dollars multiplied by his total service credit:
38 *Provided*, That the maximum allowance under this sub-
39 division shall be one hundred ninety-two dollars: *Pro-*
40 *vided, however*, That this subdivision shall be effective
41 on and after July first, one thousand nine hundred fifty-
42 seven;

43 (g) Twelve dollars multiplied by the member's total
44 service credit as a teacher.

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

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

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

51 Plan B shall be computed as follows:

52 (a) Two percent of the member's average salary
53 multiplied by his total service credit as a teacher. In
54 this paragraph "average salary" shall mean the average
55 of the highest annual salaries received by the member
56 during any five years contained within his last fifteen
57 years of total service credit; and any teacher who re-
58 tired before July one, one thousand nine hundred seventy-
59 four and who was employed for fifteen years or more
60 by a county board of education and who, though a
61 regular full-time employee as defined in this article,
62 shall have performed part-time services as a teacher
63 and shall have received less than a full salary for such
64 part-time services, over a period of two or more years,
65 during which said teacher was employed by the board

66 of education for more than one hundred eighty days
67 each year and was not otherwise employed, shall be
68 permitted to combine the salaries into increments of
69 two years, for the purpose of determining average salary,
70 but such increment shall not exceed the amount which
71 would have been payable for one year had the teacher
72 been employed on a full-time basis, and no more than
73 three such combinations may be used in computing the
74 average salary: *Provided*, That the highest annual salary
75 used in this calculation for members employed by the
76 West Virginia board of regents at institutions of higher
77 education under its control shall be four thousand eight
78 hundred dollars;

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

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

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

91 All annuities shall be paid in twelve monthly pay-
92 ments. In computing such monthly payments, fractions
93 of a cent shall be deemed a cent. Such monthly pay-
94 ments shall cease with the payment for the month
95 within which the beneficiary dies, and shall begin with
96 the payment for the month succeeding the month within
97 which the annuitant became eligible under this article
98 for the annuity granted; in no case, however, shall an
99 annuitant receive more than four monthly payments
100 which are retroactive after the board receives his applica-
101 tion for annuity.

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

107 Any person who has attained the age of sixty-five and
108 who has served at least twenty-five years as a teacher
109 prior to July one, one thousand nine hundred forty-one,
110 shall be eligible for prior service credit and for prior
111 service pensions as prescribed in this section.

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

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

7 Such nonteaching employees shall be entitled to all the
8 rights, privileges and benefits provided for teachers by
9 this article, upon the same terms and conditions as are
10 herein prescribed for teachers. Any member who was
11 employed as a regular full-time employee in a nonteach-
12 ing capacity by a board of education, school principal or
13 school administrator, prior to the time he became eligible
14 for membership in the state teachers retirement system,
15 shall be granted prior service credit for such service upon
16 making application to the retirement board and pro-
17 viding 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.

1 Any former member of the state teachers retirement sys-
2 tem who was employed as a regular full-time employee
3 in a nonteaching capacity by a board of education, school
4 principal or school administrator, prior to the time he
5 became eligible for membership in the state teachers re-
6 tirement system, shall be eligible for prior service credit
7 for such service. Upon making application to the retire-
8 ment board and providing satisfactory evidence, prior
9 service credit shall be granted and his retirement allow-
10 ance shall be recomputed and adjusted to include such
11 prior service credit. Any increased retirement allowance
12 resulting from the provisions of this section shall not be
13 retroactive.

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

James L. Davis
Chairman Senate Committee

Clarence C. Christian, Jr.
Chairman House Committee

Originated in the Senate.

In effect July 1, 1975.

James L. Wilson, Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

W. B. Brotherton
President of the Senate

Lennie H. H. Hanne
Speaker House of Delegates

The within approved this the 24th
day of March, 1975.

Paula. H. H. H.
Governor

PRESENTED TO THE
GOVERNOR

to 3/18/75
at 4:55 p.m.