

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-20-80

Time 2:30 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

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ENROLLED

Committee Substitute for
HOUSE BILL No. 878

(By Mr. Moler & Mr. Grayich)

— ● —

Passed March 8, 1980

In Effect July 1, 1980 ~~Passage~~



No: 878

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 878

(By MR. MOLER and MR. GVOYICH)

(Originating in the House Committee on Finance)

[Passed March 8, 1980; in effect July 1, 1980.]

AN ACT to amend and reenact sections three, thirteen, seventeen, twenty-five, twenty-six, twenty-eight and thirty-four, 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 seven-a, by adding thereto a new section, designated section twenty-six-h, all relating to the state teachers retirement system; eliminating allowances from employers for maintenance of members from the definition of earnable compensation of a member, with certain exceptions; deleting obsolete provision concerning declining membership in the retirement system by employed teacher; excluding from membership in the retirement system any person who is a retired member of the supplemental retirement system; requiring former members reentering the retirement system to repay to the retirement fund the amount withdrawn plus six percent interest compounded annually from date of withdrawal and providing that the interest paid shall be deposited in the reserve fund; requiring teacher members of the Legislature to contribute to the fund during their absence an amount equal to what they would have normally paid; requiring

former members of public employees retirement system to pay six percent interest compounded annually on money withdrawn and subsequently paid into the teachers retirement system for membership and service credit therein; eliminating mandatory retirement at age sixty-five requirement; eliminating obsolete Plan A for alternate computation of member's annuities; providing that certain members employed by the West Virginia board of regents at institutions of higher education use a maximum salary figure for computation of annuities; providing a supplemental benefit for certain annuitants receiving less than a specified annual annuity, contingent on legislative budgetary action, specifying factors for eligibility, and computation thereof; providing for beneficiary member who chose joint life annuity with his then spouse to change such election, one time, upon divorce or annulment of marriage, but only to a maximum annuity plan, as recalculated; increasing the minimum loan to members; allowing the teachers retirement board to adjust upward specified interest rate on loans and setting a maximum thereon; and permitting any one member to apply for only one loan in a year.

Be it enacted by the Legislature of West Virginia:

That sections three, thirteen, seventeen, twenty-five, twenty-six, twenty-eight and thirty-four, 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 seven-a be further amended by adding thereto a new section, designated section twenty-six-h, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-3. Definitions.

1 "Teacher" includes the following persons, if regularly em-
2 ployed for at least half-time service: (a) Any person em-
3 ployed for instructional service in the public schools of West
4 Virginia; (b) principals; (c) public school librarians; (d)
5 superintendents of schools and assistant county superintendents
6 of schools; (e) any county school attendance director holding
7 a West Virginia teacher's certificate; (f) the executive secre-
8 tary of the retirement board; (g) members of the research,
9 extension, administrative or library staffs of the public schools;

10 (h) the state superintendent of schools, heads and assistant
11 heads of the divisions under his supervision, or any other
12 employee thereunder performing services of an educational
13 nature; (i) employees of the state board of education who
14 are performing services of an educational nature; (j) any
15 person employed in a nonteaching capacity by the state
16 board of education, the West Virginia board of regents, any
17 county board of education, the state department of education
18 or the teachers retirement board, if such person was former-
19 ly employed as a teacher in the public schools; (k)
20 all classroom teachers, principals and educational ad-
21 ministrators in schools under the supervision of the state
22 commissioner of public institutions; and (l) employees of
23 the state board of school finance if such person was
24 formerly employed as a teacher in the public schools.

25 “Members of the administrative staff of the public school”
26 includes deans of instruction, deans of men, deans of women,
27 and financial and administrative secretaries.

28 “Members of the extension staff” of the public schools
29 includes every agricultural agent, boys’ and girls’ club agent,
30 and every member of the agricultural extension staff whose
31 work is not primarily stenographic, clerical or secretarial.

32 “Retirement system” means the state teachers retirement
33 system provided for in this article.

34 “Present teacher” means any person who was a teacher
35 within the thirty-five years beginning July one, one thousand
36 nine hundred thirty-four, and whose membership in the
37 retirement system has been continuous.

38 “New entrant” means a teacher who is not a present
39 teacher.

40 “Present member” means a present teacher who is a
41 member of the retirement system.

42 “Total service” means all service as a teacher while a
43 member of the retirement system since last becoming a member
44 and, in addition thereto, his credit for prior service, if any.

45 “Prior service” means all service as a teacher completed
46 prior to July first, one thousand nine hundred forty-one,

47 and all service of a present member who was employed as a
48 teacher, and did not contribute to a retirement account because
49 he was legally ineligible for membership during such service.

50 "Average final salary" means the average annual salary
51 earned as a teacher during the last fifteen years of prior service,
52 including military service, as provided herein, or if prior ser-
53 vice is less than fifteen years, the average annual salary for
54 that period. If the records for determining each annual salary
55 need cannot reasonably be established by the retirement board,
56 then the term means the average annual salary of the teacher
57 for years for which records are available.

58 "Accumulated contributions" means all deposits and all de-
59 ductions from the earnable compensation of a contributor
60 minus the total of all supplemental fees deducted from his
61 compensation.

62 "Regular interest" means interest at three percent com-
63 pounded annually, or a higher earnable rate if approved by the
64 retirement board.

65 "Refund interest" means interest compounded annually at
66 a rate of three percent.

67 "Employer" means the agency of and within the state which
68 has employed or employs a member.

69 "Contributor" means a member of the retirement system
70 who has an account in the teachers accumulation fund.

71 "Beneficiary" means the recipient of annuity payments
72 made under the retirement system.

73 "Refund beneficiary" means the estate of a deceased con-
74 tributor, or such person as he shall have nominated as bene-
75 ficiary of his contributions by written designation duly exe-
76 cuted and filed with the retirement board.

77 "Earnable compensation" means the full compensation
78 actually received by members for service as teachers whether
79 or not a part of such compensation is received from other
80 funds, federal or otherwise, than those provided by the state
81 or its subdivision. Allowances from employer for maintenance
82 of members shall be deemed a part of earnable compensation

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83 for such members whose allowances were approved by the
84 teachers retirement board and contributions to the teachers
85 retirement system were made, in accordance therewith, on or
86 before the effective date of this section.

87 "Annuities" means the annual retirement payments for life
88 granted beneficiaries in accordance with this article.

89 "Member" means a member of the retirement system.

90 "Public schools" means all publicly supported schools,
91 including normal schools, colleges, and universities in this
92 state.

93 "Deposit" means a voluntary payment ^{to} ~~of~~ his account by
94 a member.

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95 The masculine gender shall be construed so as to include
96 the feminine.

97 Age in excess of seventy years shall be deemed to be
98 seventy years.

§18-7A-13. Membership in retirement system; cessation of membership; payments for membership rights.

1 The membership of the retirement system shall consist of
2 the following:

3 (a) New entrants, whose membership in the system shall
4 be compulsory upon employment as teachers and nonteachers.

5 (b) The membership of the retirement system shall not
6 include any person who is an active member of or who has
7 been retired by the West Virginia public employees retire-
8 ment system, the judge's retirement system, or the retire-
9 ment system of the department of public safety or the sup-
10 plemental retirement system as provided in section four-a,
11 article twenty-three of this chapter.

12 The membership of any person in the retirement system
13 shall cease:

14 (1) Upon the withdrawal of his accumulated contributions
15 after the cessation of teaching service, or (2) upon
16 retirement, or (3) at death, or (4) if service amounts to

17 less than five years in any period of ten consecutive years.
18 For the sole purpose of preventing loss of membership under
19 subdivision (4), a deposit by the member to his individual
20 account in the teachers accumulation fund of an amount
21 equaling his last annual contribution shall be the amount
22 necessary to maintain membership status for a period of one
23 year.

24 Any former member of the retirement system who has
25 withdrawn his accumulated contributions but subsequently re-
26 enters the retirement system shall be permitted to repay to
27 the retirement fund the amount withdrawn, plus interest at a
28 rate of six percent, compounded annually from the date of
29 withdrawal to the date of repayment and shall be accorded all
30 the rights to prior service and experience as he held at the
31 time of withdrawal of such accumulated contributions. The in-
32 terest paid shall be deposited in the reserve fund.

33 No member shall be eligible for prior service credit unless
34 he is eligible for prior service pension, as prescribed by section
35 twenty-two of this article; however, a new entrant who becomes
36 a present teacher as provided in this paragraph shall be deemed
37 eligible for prior service pension upon retirement.

§18-7A-17. Statement and computation of teachers' service.

1 Under such rules and regulations as the retirement board
2 may adopt, each teacher shall file a detailed statement of his
3 length of service as a teacher for which he claims credit. The
4 retirement board shall determine what part of a year is the
5 equivalent of a year of service. In computing such service,
6 however, it shall credit no period of more than a month's dur-
7 ation during which a member was absent without pay, nor shall
8 it credit for more than one year of service performed in any
9 calendar year.

10 For the purpose of this article, the retirement board shall
11 grant prior service credit to new entrants and other members
12 of the retirement system for service in any of the armed
13 forces of the United States in any period of national emer-
14 gency within which a federal selective service act was in
15 effect. For purposes of this section, "armed forces" shall
16 include Women's Army Corps, Women's Appointed Volun-

17 teers for Emergency Service, Army Nurse Corps, Spars,
18 Women's Reserve and other similar units officially parts of
19 the military service of the United States. Such military service
20 shall be deemed equivalent to public school teaching, and
21 the salary equivalent for each year of such service shall be
22 the actual salary of the member as a teacher for his first year
23 of teaching after discharge from military service. Prior
24 service credit for military service shall not exceed ten
25 years for any one member, nor shall it exceed twenty-five
26 percent of total service at the time of retirement.

27 For service as a teacher in the employment of the federal
28 government, or a state or territory of the United States, or
29 a governmental subdivision of such state or territory, the
30 retirement board shall grant credit to the member: *Provided,*
31 That the member shall pay to the system double the amount
32 he contributed during the first full year of current employment,
33 times the number of years for which credit is granted, plus
34 interest at a rate to be determined by the retirement board.
35 Such interest shall be deposited in the reserve fund and service
36 so granted at the time of retirement shall not exceed the
37 lesser of ten years or fifty percent of the member's total
38 service as a teacher in West Virginia. Any transfer of out-of-
39 state service, as provided in this article, shall not be used
40 to establish eligibility for a retirement allowance and the
41 retirement board shall grant credit for such transferred service
42 as additional service only: *Provided, however,* That a transfer
43 of out-of-state service shall be prohibited if such service is
44 used to obtain a retirement benefit from another retirement
45 system: *Provided further,* That salaries paid to members for
46 service prior to entrance into the retirement system shall
47 not be used to compute the average final salary of such
48 member under the retirement system.

49 No member shall be deemed absent from service as a
50 teacher while serving as a member of the Legislature of the
51 state of West Virginia during any duly constituted session
52 of that body: *Provided,* That the member makes contributions
53 to the system equal to what would have been contributed during
54 the period of absence had he performed his duties as a
55 teacher.

56 No member shall be deemed absent from service as a
57 teacher while serving on leave of absence as an officer with
58 a statewide professional teaching association, or who has
59 served in such capacity, and no retired teacher, who served
60 on such leave of absence while a member, shall be deemed to
61 have been absent from service as a teacher by reason of such
62 service on leave of absence: *Provided*, That the period of
63 service credit granted for such service on leave of absence
64 shall not exceed two years: *Provided, however*, That a mem-
65 ber or retired teacher who is serving or has served as an
66 officer of a statewide professional teaching association shall
67 make deposits to the teachers retirement board, for the time
68 of any such absence, in an amount double the amount which
69 he would have contributed in his regular assignment for a like
70 period of time.

71 The teachers retirement board shall grant service credit
72 to any former or present member of the West Virginia public
73 employees retirement system who has been a contributing
74 member for more than three years, for service previously
75 credited by the public employees retirement system, and (1)
76 shall require the transfer of the member's contributions to
77 the teachers retirement system or (2) shall require a re-
78 payment of the amount withdrawn any time prior to the
79 member's retirement: *Provided*, That there shall be added by
80 the member to the amounts transferred or repaid under this
81 paragraph an amount which shall be sufficient to equal the
82 contributions he would have made had the member been under
83 the teachers retirement system during the period of his
84 membership in the public employees retirement system plus
85 interest at a rate of six percent, compounded annually from the
86 date of withdrawal to the date of repayment. The interest paid
87 shall be deposited in the reserve fund.

88 If a member is not eligible for prior service credit or pen-
89 sion as provided in this article, then his prior service shall not
90 be deemed a part of his total service.

91 A member who withdrew from membership shall be permit-
92 ted to regain his former membership rights as specified in
93 section thirteen of this article only in case he has served
94 two years since his last withdrawal.

95 Subject to the above provisions, the board shall verify
96 as soon as practicable, the statements of service submitted.
97 The retirement board shall issue prior service certificates to
98 all persons eligible therefor under the provisions of this
99 article. Such certificates shall state the length of such prior
100 service credit, but in no case shall the prior service credit
101 exceed forty years.

§18-7A-25. Eligibility for retirement allowance.

1 Any member who has attained the age of sixty years or
2 who has had thirty-five years of total service as a teacher
3 in West Virginia, regardless of age, shall be eligible for an
4 annuity. No new entrant nor present member shall be eligible
5 for an annuity, however, if either has less than five years of
6 service to his credit.

7 Any member who has attained the age of fifty-five years
8 and who has served thirty years as a teacher in West Virginia
9 shall be eligible for an annuity.

10 The request for any annuity shall be made by the member
11 in writing to the retirement board, but in case of retirement
12 for disability, the written request may be made by either
13 the member or the employer.

14 A member shall be eligible for annuity for disability, if
15 he satisfies the conditions in both (a) and (b) as follows:

16 (a) His service as a teacher in West Virginia must total
17 at least ten years, and service as a teacher must have been
18 terminated because of disability, which disability must have
19 caused absence from service for at least six months before
20 his application for disability annuity is approved.

21 (b) An examination by a physician or physicians selected
22 by the retirement board must show that the member is at the
23 time mentally or physically incapacitated for service as a
24 teacher, that for such service the disability is total and likely
25 to be permanent, and that he should be retired in consequence
26 thereof.

27 Continuance of the disability of the retired teacher shall
28 be established by medical examination, as prescribed in

29 the preceding paragraph, annually for five years after re-
30 tirement, and thereafter at such times as the retirement board
31 may require. Payment of the disability annuity provided in
32 this article shall cease immediately, if the retirement board
33 finds that the disability of the retired teacher no longer exists,
34 or if the retired teacher refuses to submit to medical examina-
35 tion as required by this section.

§18-7A-26. Computation of annuities.

1 Annuitants whose annuities were approved by the retire-
2 ment board effective before July first, one thousand nine
3 hundred eighty, shall be paid the annuities which were ap-
4 proved by the retirement board.

5 Annuities approved by the board effective after June thirty,
6 one thousand nine hundred eighty, shall be computed as
7 provided herein.

8 Upon establishment of eligibility for a retirement allowance,
9 a member shall be granted an annuity which shall be the sum
10 of the following:

11 (a) Two percent of the member's average salary multi-
12 plied by his total service credit as a teacher. In this paragraph
13 "average salary" shall mean the average of the highest annual
14 salaries received by the member during any five years con-
15 tained within his last fifteen years of total service credit:
16 *Provided*, That the highest annual salary used in this calcula-
17 tion for certain members employed by the West Virginia board
18 of regents at institutions of higher education under its con-
19 trol shall be four thousand eight hundred dollars, as provided
20 by section fourteen-a of this article and chapter;

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

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

27 Upon the death of an annuitant who qualified for an an-
28 nuity as a surviving spouse or because of permanent disability,

29 the estate of the deceased or beneficiary designated for such
30 purpose, shall be paid the difference, if any, between the
31 member's contributions with regular interest thereon, and the
32 sum of the annuity payments.

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

42 In case the retirement board receives data affecting the ap-
43 proved annuity of a retired teacher, the annuity shall be
44 changed in accordance with the data, the change being effec-
45 tive with the payment for the month within which the board
46 received the new data.

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

§18-7A-26h. Supplemental benefits for certain annuitants.

1 Any annuitant who is receiving a retirement annuity of
2 less than six thousand dollars annually on the effective date
3 of this section shall receive a supplemental benefit, prospec-
4 tively, under this section in any fiscal year for which the
5 Legislature provides by line item appropriation for the pay-
6 ment of such benefit: *Provided*, That the effective date of
7 retirement for such annuitant was prior to July first, one
8 thousand nine hundred seventy-six, and he had ten years or
9 more of credited service at the time of such retirement. Any
10 annuitant retired pursuant to the disability provisions of this
11 article shall be considered to have had ten years or more
12 of credit^{ed} service at the time of such retirement.

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13 Each such annuitant shall receive as his supplemental

14 benefit an increased annual amount which is the pro-
15 duct of the sum of fifteen dollars multiplied by his years
16 of credited service: *Provided*, That the total annuity of any
17 annuitant affected by the provisions of this section, together
18 with any of the other provisions of this article, shall not
19 exceed six thousand dollars annually.

20 For the purpose of calculating the supplemental benefit
21 provided in this section, fractional parts of a service credit
22 year are to be disregarded unless in excess of one half of a
23 credited service year, in which event the same shall constitute
24 a full year of service credit.

**§18-7A-28. Options to beneficiaries; change of certain options be-
cause of divorce or annulment; limitation on re-
calculated monthly benefits.**

1 The retirement board is hereby authorized to offer plans,
2 optional with the beneficiary, for the payment of allowances
3 due such beneficiary for retirement, withdrawal or prior
4 service pensions under the retirement system. No plans shall
5 be offered, however, which are not approved by competent
6 actuaries.

7 When a beneficiary and his spouse have been approved for
8 a retirement plan which provides for them a joint life annuity,
9 and their marriage is subsequently dissolved, the board shall
10 permit such beneficiary to convert to the maximum life an-
11 nuity plan approved by the board: *Provided*, That the benefi-
12 ciary shall furnish to the board proof of entry of a final decree
13 of divorce or annulment: *Provided, however*, That a benefi-
14 ciary who qualifies for the change of retirement plans af-
15 farded by this section shall be permitted only one such change:
16 *Provided further*, That the recalculated monthly benefits, in-
17 dependently of increases granted by law after the beneficiary's
18 retirement, shall not exceed the monthly benefits which would
19 have been applicable under the maximum life annuity plan
20 at the time the beneficiary retired; and with such recalcula-
21 tion to be effective on the first day of the month following
22 submission to the board by the beneficiary of proof of entry of
23 a final decree of divorce or annulment.

§18-7A-34. Loans to members.

1 A member of the retirement system upon written applica-
2 tion may borrow from his individual account in the teachers
3 accumulation fund, subject to these restrictions:

4 (1) Loans shall be made in multiples of ten dollars, the
5 minimal loan being one hundred dollars and the maximum
6 being three thousand dollars.

7 (2) Loans to any one member shall not exceed one half of
8 his contributions to his individual account in the teachers
9 accumulation fund.

10 (3) Interest charged on the amount of the loan shall be
11 six percent per annum, or a higher rate as set by the teachers
12 retirement board. If repayable in installments, the interest
13 shall not exceed the annual rate so established upon the
14 principal amount of the loan, for the entire period of the
15 loan, and such charge shall be added to the principal amount
16 of the loan. The minimal interest charge shall be for six
17 months.

18 (4) No member shall be eligible for more than one loan
19 in any one year.

20 (5) If a refund or benefit is payable to the borrower or
21 his beneficiary before he repays the loan with interest, the
22 balance due with interest to date shall be deducted from
23 such benefit or refund.

24 (6) From his monthly salary as a teacher the member
25 shall pay the loan and interest by deductions which will pay
26 the loan and interest in not more than forty-eight nor less
27 than six months. Upon notice of loan granted and payment
28 due, the employer shall be responsible for making such
29 salary deductions and reporting them to the retirement
30 board. At the option of the retirement board, loan de-
31 ductions may be collected as prescribed herein for the
32 collection of members' contribution, or may be collected
33 through issuance of warrant by employer. If the borrower
34 decides to make loan payments while not paid for service as
35 a teacher, the retirement board must accept such payments.

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

James L. Davis
Chairman Senate Committee

Clearence C. Chestnut Jr
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Todd C. Wilks
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. P. Robertson Jr
President of the Senate

Clayton N. Lee Jr
Speaker House of Delegates

The within *is approved* this the *20*
day of *March*, 1980.

John R. Ragsdale
Governor

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