

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-26-80

Time 3:00 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

— ● —

ENROLLED

Committee Substitute for
HOUSE BILL No. 904

(By Mr. Spears + Mrs. Neal)

— ● —

Passed March 8, 1980

In Effect July 1, 1980 ~~Passage~~



700: 904

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 904
(By MRS. SPEARS and MRS. NEAL)

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

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AN ACT to amend and reenact sections seventeen, eighteen and thirty-one-a, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article ten, by adding thereto a new section, designated section twenty-two-b, all relating to the public employees retirement act; permitting retired members of the department of public safety or retired municipal policemen or firemen thereafter becoming members of the state public employees retirement system to receive service credit therein for time subsequently employed, if no duplication of a service credit year granted by the prior retirement system, and requiring payment of employer and employee contribution for certain periods; providing for reentry of a former member of the public employees retirement system after the elapse of more than five years subsequent to prior employment therein and qualifications and eligibility therefor; 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; and extending the time period for election of participation in public employees retirement system to defined eligible participating public employers through retroactive contributions for acquirement of

service credit years for current employees for such prior periods,
and new election of participation to expire after specified period.

Be it enacted by the Legislature of West Virginia:

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

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**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT
ACT.**

§5-10-17. Retirement system membership.

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

3 (a) All employees, as defined in section two of this article,
4 who are in the employ of a political subdivision the day
5 preceding the date it becomes a participating public em-
6 ployer and who continue in the employ of the said participa-
7 ting public employer on and after the said date shall become
8 members of the retirement system; and all persons who be-
9 come employees of a participating public employer on or
10 after the said date shall thereupon become members of the
11 system; except as provided in subdivisions (b) and (c) of this
12 section.

13 (b) The membership of the retirement system shall not
14 include any person who is a member of, or who has been
15 retired by, the state teachers' retirement system, the judges'
16 retirement system, the retirement system of the department
17 of public safety, or any municipal retirement system for
18 either, or both, policemen or firemen; and the West Virginia
19 department of employment security, by the commissioner of
20 such department, may elect whether its employees will accept
21 coverage under this article or be covered under the authoriza-
22 tion of a separate enactment: *Provided*, That such exclusions
23 of membership shall not apply to any member of the state
24 Legislature, the clerk of the House of Delegates, the clerk
25 of the state Senate or to any member of the legislative body
26 of any political subdivision provided he once becomes a

27 contributing member of the retirement system: *Provided,*
28 *however,* That any retired member of the retirement system
29 of the department of the public safety, and any retired
30 member of any municipal retirement system for either, or
31 both, policemen or firemen may on and after the effective
32 date of this section become a member of the retirement
33 system as provided in this article, without receiving credit
34 for prior service as a municipal policeman or fireman or as
35 a member of the department of public safety: *Provided further,*
36 That service credit shall be given to any such retired member
37 of the retirement system of the department of public safety
38 and any such retired member of any municipal retirement
39 system for either, or both, policemen or firemen for all the
40 time such member actually performed service for a participat-
41 ing public employer, whether before or after the eleventh day
42 of June, one thousand nine hundred seventy-six, to the extent
43 such service credit does not duplicate a service credit already
44 given to such member by the retirement system of the
45 department of public safety or the municipal retirement system,
46 whichever applies: *Provided further,* That such service credit
47 relates to periods employed subsequent to retirement from
48 one of the aforementioned retirement systems: *And Provided*
49 *further,* That an employer and employee contribution be made
50 as required by the retirement board for any period subsequent
51 to the first day of July, one thousand nine hundred sixty-one.

52 (c) Any member of the state Legislature, the clerk of the
53 House of Delegates, the clerk of the state Senate or any
54 member of the legislative body of any other political sub-
55 division shall become a member of the retirement system
56 provided he notifies the retirement system in writing of his
57 intention to be a member of the system and files a member-
58 ship enrollment form as the board of trustees shall prescribe,
59 and each person, upon filing his written notice to participate
60 in the retirement system, shall by said act authorize the clerk
61 of the House of Delegates or the clerk of the state Senate
62 or such person as the legislative body of any other political
63 subdivision shall designate to deduct such member's contri-
64 bution, as provided in subsection (b), section twenty-nine of
65 this article, and after said deductions have been made from

66 said member's compensation, such deductions shall be for-
67 warded to the retirement system.

68 (d) Should any question arise regarding the membership
69 status of any employee, the board of trustees has the final
70 power to decide the question.

§5-10-18. Termination of membership.

1 When a member of the retirement system retires or dies, he
2 ceases to be a member. When a member leaves the employ of
3 a participating public employer for any other reason, he ceases
4 to be a member and forfeits service credited to him at that
5 time. If he becomes reemployed by a participating public
6 employer he shall be reinstated as a member of the retirement
7 system and his credited service last forfeited by him shall be
8 restored to his credit: *Provided*, That if five or more years
9 have passed since he last left the employ of a participating
10 public employer, he must have had at least five years of past
11 credited service, of which at least three years are contributing
12 service, and be reemployed for a period of one year or longer
13 to have such service restored: *Provided, however*, That he
14 returns to the members' deposit fund the amount, if any, he
15 withdrew therefrom, together with regular interest thereon
16 from the date of withdrawal to the date of repayment.

§5-10-22b. Supplemental benefits for certain annuitants.

1 Any annuitant who is receiving a retirement annuity of less
2 than six thousand dollars annually on the effective date of this
3 section shall receive, upon application, a supplemental benefit,
4 prospectively, under this section in any fiscal year for which
5 the Legislature provides by line item appropriation for the pay-
6 ment of such benefit: *Provided*, That the effective date of re-
7 tirement for such annuitant was prior to July 1, 1976 and he
8 had ten years or more of credit service at the time of such re-
9 tirement. Any annuitant retired pursuant to the disability pro-
10 visions of this article shall be considered to have had ten
11 years or more credited service at the time of such retirement.
12 Each such annuitant shall receive as his supplemental bene-
13 fit an increased annual amount which is the product
14 of the sum of fifteen dollars multiplied by his years
15 of credited service: *Provided*, That the total annuity of any

16 annuitant affected by the provisions of this section, together
 17 with any of the other provisions of this article or any other
 18 article or chapter of this code, shall not exceed six thousand
 19 dollars annually.

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

§5-10-31a. Retroactive contributions to the retirement system.

1 Those public employers who are participating in the West
 2 Virginia public employees retirement system and elected to
 3 participate after the first day of July, one thousand nine
 4 hundred sixty-one, and those employers who are eligible but
 5 who have not elected to participate, may elect to cover
 6 their employees retroactively for the period of their prior
 7 employment by such employer to the first day of July, one
 8 thousand nine hundred sixty-one, under the following terms
 9 and rules and regulations to be promulgated by the board of
 10 trustees of the retirement system:

11 (a) The participating employer, in order to provide the
 12 benefits set forth herein, shall pay an additional contribution
 13 to the retirement system as shall be the actuarial equivalent
 14 of the amount which would have been contributed, together
 15 with earnings thereon, by the employer had the employee
 16 who is to receive retroactive credit been covered during the
 17 period of the retroactive service credit. This contribution may
 18 be made by the employer either in one lump sum or, at the
 19 election of the employer, by level term payments over a
 20 period not in excess of fifteen years or by both lump sum
 21 payments and level term payments, as determined by the em-
 22 ployer and the board of trustees under rules and regulations
 23 promulgated by the board.

24 (b) The additional service credit shall be applicable to
 25 employees working for the participating employer on the ef-
 26 fective date of the change of date of participation;

27 (c) There shall be no increase in benefits and annuities

28 paid to former members of the system who were retired prior
29 to the effective date of this section;

30 (d) Employees entitled to retroactive service credit under
31 the provisions of this section shall make such additional contri-
32 bution to the retirement system equal to the actuarial equivalent
33 of the amount which would have been contributed, together
34 with earnings thereon, by the employee had the employee
35 been covered during the period of the retroactive service
36 credit;

37 (e) Each employer and employee shall be required to pay
38 into the retirement system in the manner hereinafter pro-
39 vided the amount necessary for the additional service credit
40 provided by this section, based upon an actuarial study of
41 each employer that elects to participate in the retirement system
42 under this section and as determined by the board of trustees;

43 (f) The actuarial basis for determining the additional
44 contributions shall be that currently in effect for the valuation
45 of the retirement system on the effective date of the em-
46 ployer's election;

47 (g) Any new participating employer and any participating
48 employer which is currently a participant and who began
49 participating after the first day of July, one thousand nine
50 hundred sixty-one, who desires additional service credit must
51 elect to provide such service credit within one year following
52 the effective date of this section.

53 (h) Any participating employer requesting additional
54 service credit as provided by this section shall provide such
55 employee data as may be requested from the board of trustees
56 of the retirement system for the determination of the em-
57 ployer's contributions; and

58 (i) The consulting actuary's fees for computing the addi-
59 tional contribution rates under this section shall be paid direct-
60 ly by the participating employer to the consulting actuary
61 selected by the board of trustees of the retirement system.

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

James L. Davis
Chairman Senate Committee

Clarence L. Johnston Jr
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Isid C. Willis
Clerk of the Senate

W. A. Blankenship
Clerk of the House of Delegates

W. T. Broderick
President of the Senate

Clayton M. Lee Jr
Speaker House of Delegates

The within *is approved* this the *26*
day of *March*, 1980.

John R. Raley Jr
Governor

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