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
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 acquisition 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:

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, who are in the employ of a political subdivision the day preceding the date it becomes a participating public employer and who continue in the employ of the said participating public employer on and after the said date shall become members of the retirement system; and all persons who become employees of a participating public employer on or after the said date shall thereupon become members of the system; except as provided in subdivisions (b) and (c) of this section.

4. (b) The membership of the retirement system shall not include any person who is a member of, or who has been retired by, the state teachers' retirement system, the judges' retirement system, the retirement system of the department of public safety, or any municipal retirement system for either, or both, policemen or firemen; and the West Virginia department of employment security, by the commissioner of such department, may elect whether its employees will accept coverage under this article or be covered under the authorization of a separate enactment: Provided, That such exclusions of membership shall not apply to any member of the state Legislature, the clerk of the House of Delegates, the clerk of the state Senate or to any member of the legislative body of any political subdivision provided he once becomes a
contributing member of the retirement system: *Provided, however,* That any retired member of the retirement system of the department of the public safety, and any retired member of any municipal retirement system for either, or both, policemen or firemen may on and after the effective date of this section become a member of the retirement system as provided in this article, without receiving credit for prior service as a municipal policeman or fireman or as a member of the department of public safety: *Provided further,* That service credit shall be given to any such retired member of the retirement system of the department of public safety and any such retired member of any municipal retirement system for either, or both, policemen or firemen for all the time such member actually performed service for a participating public employer, whether before or after the eleventh day of June, one thousand nine hundred seventy-six, to the extent such service credit does not duplicate a service credit already given to such member by the retirement system of the department of public safety or the municipal retirement system, whichever applies: *Provided further,* That such service credit relates to periods employed subsequent to retirement from one of the aforementioned retirement systems: And *Provided further,* That an employer and employee contribution be made as required by the retirement board for any period subsequent to the first day of July, one thousand nine hundred sixty-one.

(c) Any member of the state Legislature, the clerk of the House of Delegates, the clerk of the state Senate or any member of the legislative body of any other political subdivision shall become a member of the retirement system provided he notifies the retirement system in writing of his intention to be a member of the system and files a membership enrollment form as the board of trustees shall prescribe, and each person, upon filing his written notice to participate in the retirement system, shall by said act authorize the clerk of the House of Delegates or the clerk of the state Senate or such person as the legislative body of any other political subdivision shall designate to deduct such member’s contribution, as provided in subsection (b), section twenty-nine of this article, and after said deductions have been made from
said member's compensation, such deductions shall be for-
warded to the retirement system.

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

§5-10-18. **Termination of membership.**

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

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

Any annuitant who is receiving a retirement annuity of less
than six thousand dollars annually on the effective date of this
section shall receive, upon application, a supplemental benefit,
prospectively, under this section in any fiscal year for which
the Legislature provides by line item appropriation for the pay-
ment of such benefit: Provided, That the effective date of re-
tirement for such annuitant was prior to July 1, 1976 and he
had ten years or more of credit service at the time of such re-
tirement. Any annuitant retired pursuant to the disability pro-
visions of this article shall be considered to have had ten
years or more credited service at the time of such retirement.
Each such annuitant shall receive as his supplemental bene-
fit an increased annual amount which is the product
of the sum of fifteen dollars multiplied by his years
of credited service: Provided, That the total annuity of any
annuitant affected by the provisions of this section, together
with any of the other provisions of this article or any other
article or chapter of this code, shall not exceed six thousand
dollars annually.

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

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

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

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

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

(c) There shall be no increase in benefits and annuities
paid to former members of the system who were retired prior
to the effective date of this section;

(d) Employees entitled to retroactive service credit under
the provisions of this section shall make such additional contribu-
tion to the retirement system equal to the actuarial equivalent
of the amount which would have been contributed, together
with earnings thereon, by the employee had the employee
been covered during the period of the retroactive service
credit;

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

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

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

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

(i) The consulting actuary's fees for computing the addi-
tional contribution rates under this section shall be paid direct-
ly by the participating employer to the consulting actuary
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 S. Lewis
Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect July 1, 1980.

Terry E. Mills
Clerk of the Senate

Clerk of the House of Delegates

W. T. Blandford
President of the Senate

Speaker House of Delegates

The within _______ approved _______ this the ______ day of ________ , 1980.

Governor