

SB # 237

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SECRETARY OF STATE

## WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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# ENROLLED

Com. Sub. for Com. Sub. for  
**SENATE BILL NO.** 237

(By Senator Burdette, Mr. President, et al)

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**PASSED** March 12, 1994  
**In Effect** July 1, 1994 ~~Passage~~

**E N R O L L E D**  
COMMITTEE SUBSTITUTE  
FOR  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 237**

(BY SENATORS BURDETTE, MR. PRESIDENT, BOLEY,  
ANDERSON, CHAFIN, CHERNENKO, CLAYPOLE, CRAIGO,  
DITTMAR, HUMPHREYS, JONES, LUCHT, MANCHIN,  
MILLER, MINARD, ROSS, SCHOONOVER, SHARPE,  
TOMBLIN, WALKER, WEHRLE, WHITLOW, WIEDEBUSCH,  
WITHERS AND WOOTON, BY REQUEST OF THE EXECUTIVE)

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[Passed March 12, 1994; to take effect July 1, 1994.]

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AN ACT to amend article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-two-e; and to amend and reenact section thirty-one of said article, relating to the public employees retirement act; providing supplemental benefits for retirees under specified conditions; employers accumulation fund; employer contributions; requiring the consolidated public retirement board to promulgate legislative

rules relating to the amount of employer contributions; allowing for emergency rule promulgation under certain conditions; and maintaining a cap on the percentage rate of contributions by employers.

*Be it enacted by the Legislature of West Virginia:*

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

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

**§5-10-22e. Supplemental benefits for retirees effective July 1, 1994; calculation of benefits and conditions of payment.**

1 (a) A supplement to retirement benefits provided shall  
2 be paid prospectively to all eligible annuitants who have  
3 been retired prior to the thirty-first day of December,  
4 one thousand nine hundred ninety-two, which supple-  
5 ment shall become effective on the first day of July, one  
6 thousand nine hundred ninety-four. The calculation of  
7 such supplement for each annuitant shall be based upon  
8 the number of full increments as set forth in subsections  
9 (b) through (k) of this section that the annuitant has  
10 maintained his or her retired status since the original  
11 date of the commencement of his or her retirement, and  
12 shall equal the sum of the applicable percentages  
13 credited for such increments as set forth in the applica-  
14 ble subsections of this section. Any such supplement  
15 shall be paid in pro rata monthly installments.

16 (b) The total amount of the supplement due to qualified  
17 annuitants who retired during the period commencing on  
18 the first day of April, one thousand nine hundred eighty-  
19 eight, and ending on the thirty-first day of December,  
20 one thousand nine hundred ninety-two, shall be three  
21 percent of their retirement benefit including any  
22 supplemental benefits provided on or before the first day  
23 of July, one thousand nine hundred seventy-four:

24 *Provided*, That annuitants who retired during the period  
25 set forth in this subsection shall be required to elect  
26 between receiving the supplemental benefit provided in  
27 this section or any incentives provided in section twenty-  
28 two-c of this article or any other supplements provided  
29 in this article: *Provided, however*, That the consolidated  
30 public retirement board shall provide written notifica-  
31 tion to members eligible for the benefit provided in this  
32 subsection of the availability and terms of the benefit  
33 provided in this subsection and members electing to  
34 select this benefit in lieu of any other incentive the  
35 member has or is receiving shall submit an application  
36 for the benefit on the form prescribed by the board.

37 (c) The total amount of the supplement due to qualified  
38 annuitants who retired during the period commencing on  
39 the first day of July, one thousand nine hundred eighty-  
40 five, and ending on the thirty-first day of March, one  
41 thousand nine hundred eighty-eight, shall be five  
42 percent of their retirement benefit including any  
43 supplemental benefits provided on or before the first day  
44 of July, one thousand nine hundred seventy-four, plus  
45 the amount of the percentage supplement provided in  
46 subsection (b) of this section.

47 (d) The total amount of the supplement due to qualified  
48 annuitants who retired during the period commencing on  
49 the first day of July, one thousand nine hundred eighty-  
50 two, and ending on the thirtieth day of June, one  
51 thousand nine hundred eighty-five, shall be five percent  
52 of their retirement benefit including any supplemental  
53 benefits provided on or before the first day of July, one  
54 thousand nine hundred seventy-four, plus the amount of  
55 the percentage supplements provided in subsections (b)  
56 and (c) of this section.

57 (e) The total amount of the supplement due to qualified  
58 annuitants who retired during the period commencing on  
59 the first day of July, one thousand nine hundred seventy-  
60 nine, and ending on the thirtieth day of June, one  
61 thousand nine hundred eighty-two, shall be sixteen

62 percent of their retirement benefit including any  
63 supplemental benefits provided on or before the first day  
64 of July, one thousand nine hundred seventy-four, plus  
65 the amount of the percentage supplements provided in  
66 subsections (b), (c) and (d) of this section.

67 (f) The total amount of the supplement due to qualified  
68 annuitants who retired during the period commencing on  
69 the first day of July, one thousand nine hundred seventy-  
70 six, and ending on the thirtieth day of June, one  
71 thousand nine hundred seventy-nine, shall be sixteen  
72 percent of their retirement benefit including any  
73 supplemental benefits provided on or before the first day  
74 of July, one thousand nine hundred seventy-four, plus  
75 the amount of the percentage supplements provided in  
76 subsections (b), (c), (d) and (e) of this section.

77 (g) The total amount of the supplement due to qualified  
78 annuitants who retired during the period commencing on  
79 the first day of July, one thousand nine hundred seventy-  
80 three, and ending on the thirtieth day of June, one  
81 thousand nine hundred seventy-six, shall be sixteen  
82 percent of their retirement benefit including any  
83 supplemental benefits provided on or before the first day  
84 of July, one thousand nine hundred seventy-four, plus  
85 the amount of the percentage supplements provided in  
86 subsections (b), (c), (d), (e) and (f) of this section.

87 (h) The total amount of the supplement due to qualified  
88 annuitants who retired during the period commencing on  
89 the first day of July, one thousand nine hundred seventy,  
90 and ending on the thirtieth day of June, one thousand  
91 nine hundred seventy-three, shall be twenty-four percent  
92 of their retirement benefit including any supplemental  
93 benefits provided on or before the first day of July, one  
94 thousand nine hundred seventy-four, plus the amount of  
95 the percentage supplements provided in subsections (b),  
96 (c), (d), (e), (f) and (g) of this section.

97 (i) The total amount of the supplement due to qualified  
98 annuitants who retired during the period commencing on  
99 the first day of July, one thousand nine hundred sixty-

100 seven, and ending on the thirtieth day of June, one  
101 thousand nine hundred seventy, shall be twenty-four  
102 percent of their retirement benefit including any  
103 supplemental benefits provided on or before the first day  
104 of July, one thousand nine hundred seventy-four, plus  
105 the amount of the percentage supplements provided in  
106 subsections (b), (c), (d), (e), (f), (g) and (h) of this section.

107 (j) The total amount of the supplement due to qualified  
108 annuitants who retired during the period commencing on  
109 the first day of July, one thousand nine hundred sixty-  
110 four, and ending on the thirtieth day of June, one  
111 thousand nine hundred sixty-seven, shall be twenty-four  
112 percent of their retirement benefit including any  
113 supplemental benefits provided on or before the first day  
114 of July, one thousand nine hundred seventy-four, plus  
115 the amount of the percentage supplements provided in  
116 subsections (b), (c), (d), (e), (f), (g), (h) and (i) of this  
117 section.

118 (k) The total amount of the supplement due to qualified  
119 annuitants who retired during the period commencing on  
120 the first day of July, one thousand nine hundred sixty-  
121 one, and ending on the thirtieth day of June, one  
122 thousand nine hundred sixty-four, shall be twenty-four  
123 percent of their retirement benefit including any  
124 supplemental benefits provided on or before the first day  
125 of July, one thousand nine hundred seventy-four, plus  
126 the amount of the percentage supplements provided in  
127 subsections (b), (c), (d), (e), (f), (g), (h), (i) and (j) of this  
128 section.

129 (l) For each annuitant, a preliminary supplement shall  
130 be computed on the basis of the original annual benefit  
131 including any supplemental benefits provided on or  
132 before the first day of July, one thousand nine hundred  
133 seventy-four, received by the original retiree as provided  
134 by subsections (b) through (k) of this section, inclusive.  
135 This preliminary supplement shall be calculated only on  
136 amounts up to, but not exceeding, the first five thousand  
137 four hundred dollars of the original annual retirement

138 benefit paid including any supplement provided on or  
139 before the first day of July, one thousand nine hundred  
140 seventy-four.

141 (m) Each annuitant shall receive as that annuitant's  
142 supplement under this section an amount equal to the  
143 preliminary supplement or a supplement as calculated in  
144 subsections (n) and (o) of this section as appropriate.

145 (n) Each survivor beneficiary shall receive as that  
146 survivor beneficiary's supplement under this section an  
147 amount equal to that pro rata share of that survivor  
148 beneficiary's preliminary supplement, as defined above,  
149 as such survivor beneficiary's benefit, without regard to  
150 any supplements, constitutes as a pro rata share of the  
151 original benefit of the original retiree: *Provided*, That for  
152 any person who becomes a survivor beneficiary, after the  
153 first day of July, one thousand nine hundred ninety-four,  
154 the benefit provided under this section shall be  
155 recomputed under the provisions of this subsection.

156 (o) Each disabled retiree shall receive as that disabled  
157 retiree's supplement under this section that pro rata  
158 share of that disabled retiree's preliminary supplement,  
159 as defined above, as such disabled retiree's current  
160 benefit, without regard to any supplements, constitutes  
161 as a pro rata share of that disabled retiree's original  
162 benefit: *Provided*, That any disabled retiree scheduled  
163 under the terms of the retirement system to have a  
164 benefit recomputed at some time subsequent to the  
165 effective date of this section will, at the time of that  
166 recomputation, also have the supplemental benefit  
167 recomputed under the terms of the preceding sentence.

168 (p) Any supplemental benefit computed under this  
169 section shall only be paid in lieu of, and not in addition  
170 to, the payment of any prior supplemental benefit  
171 amounts or incentives provided by law after the first day  
172 of July, one thousand nine hundred seventy-four, which  
173 are currently being paid: *Provided*, That any annuitant  
174 receiving a supplemental benefit greater than that  
175 provided in this section shall continue to receive the

176 current supplemental benefits.

177 (q) The supplement provided in this section shall be  
 178 recalculated on a pro-rata basis of the preliminary  
 179 supplement whenever the original annuity amount is  
 180 adjusted due to the death or disability of an annuitant or  
 181 any other event.

**§5-10-31. Employers accumulation fund; employers contribu-  
 tions.**

1 (a) The employers accumulation fund is hereby  
 2 continued. It shall be the fund in which shall be  
 3 accumulated the contributions made by the participating  
 4 public employers to the retirement system, and from  
 5 which transfers shall be made as provided in this section.

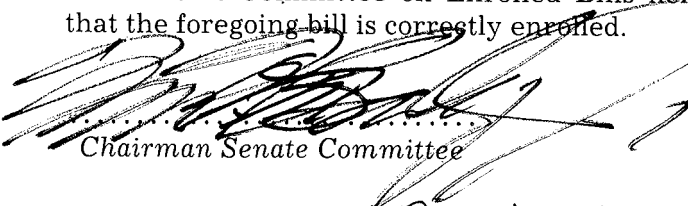
6 (b) Based upon the provisions of section thirteen of this  
 7 article, the participating public employers' contributions  
 8 to the retirement system, as determined by the consoli-  
 9 dated public retirement board by legislative rule  
 10 promulgated in accordance with the provisions of article  
 11 three, chapter twenty-nine-a of this code, shall be a  
 12 percent of the members' total annual compensation  
 13 related to benefits under this retirement system. In  
 14 determining the amount, the board shall give consider-  
 15 ation to setting the amount at a sum equal to an amount  
 16 which if paid annually by the participating public  
 17 employers, will be sufficient to provide for the total  
 18 normal cost of the benefits expected to become payable  
 19 to all members and to amortize any unfunded liability  
 20 found by application of such actuarial funding method  
 21 as shall be chosen for such purpose by the consolidated  
 22 public retirement board, over such a period of years as  
 23 shall be deemed actuarially appropriate. When proposing  
 24 a rule for promulgation which relates to the amount of  
 25 employer contribution, the board may promulgate rules  
 26 by emergency pursuant to the provisions of article three,  
 27 chapter twenty-nine-a, if the inability of the board to  
 28 increase employer contributions will detrimentally effect  
 29 the actuarial soundness of the retirement system. A  
 30 signed statement from the state actuary will accompany



31 the statement of facts and circumstances constituting an  
32 emergency which must be filed in the state register. For  
33 purposes of this section, subdivision (2), subsection (a)  
34 shall not be applicable to the secretary of state's  
35 determination of whether an emergency rule should be  
36 approved.

37 In no year may the total of the contributions provided  
38 for in this section, to be paid by any participating public  
39 employer exceed, ten and five-tenths percent of the total  
40 payroll for the members in the employ of such partici-  
41 pating public employer for the preceding fiscal year.

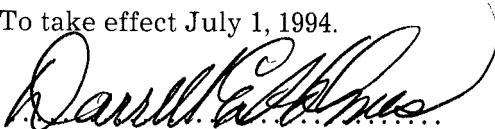
The Joint Committee on Enrolled Bills hereby certifies  
that the foregoing bill is correctly enrolled.

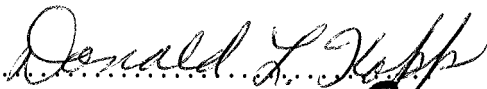
  
.....  
Chairman Senate Committee

  
Ernest C. Moore  
.....  
Chairman House Committee


Originated in the Senate.

To take effect July 1, 1994.

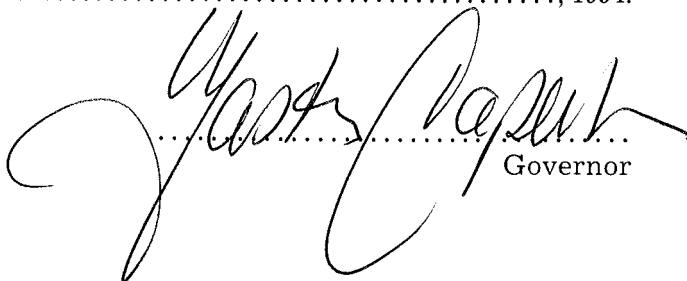
  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved this the 30<sup>th</sup> day of May, 1994.

  
.....  
Governor

PRESENTED TO THE

Date 3/30/94  
Time 12:53 PM