WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED
Com. Sub. for Com. Sub. for
SENATE BILL NO. 237
(BY Senator Burdette, Mr. President, et al)

PASSED March 12, 1994
In Effect July 1, 1994
ENROLLED
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)

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

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 be paid prospectively to all eligible annuitants who have been retired prior to the thirty-first day of December, one thousand nine hundred ninety-two, which supplement shall become effective on the first day of July, one thousand nine hundred ninety-four. The calculation of such supplement for each annuitant shall be based upon the number of full increments as set forth in subsections (b) through (k) of this section that the annuitant has maintained his or her retired status since the original date of the commencement of his or her retirement, and shall equal the sum of the applicable percentages credited for such increments as set forth in the applicable subsections of this section. Any such supplement shall be paid in pro rata monthly installments.

(b) The total amount of the supplement due to qualified annuitants who retired during the period commencing on the first day of April, one thousand nine hundred eighty-eight, and ending on the thirty-first day of December, one thousand nine hundred ninety-two, shall be three percent of their retirement benefit including any supplemental benefits provided on or before the first day of July, one thousand nine hundred seventy-four:
Provided, That annuitants who retired during the period set forth in this subsection shall be required to elect between receiving the supplemental benefit provided in this section or any incentives provided in section twenty-two-c of this article or any other supplements provided in this article: Provided, however, That the consolidated public retirement board shall provide written notification to members eligible for the benefit provided in this subsection of the availability and terms of the benefit provided in this subsection and members electing to select this benefit in lieu of any other incentive the member has or is receiving shall submit an application for the benefit on the form prescribed by the board.

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

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

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

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

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

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

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

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

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

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

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
current supplemental benefits.

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

§5-10-31. Employers accumulation fund; employers contributions.

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

(b) Based upon the provisions of section thirteen of this article, the participating public employers' contributions to the retirement system, as determined by the consolidated public retirement board by legislative rule promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code, shall be a percent of the members' total annual compensation related to benefits under this retirement system. In determining the amount, the board shall give consideration to setting the amount at a sum equal to an amount which if paid annually by the participating public employers, will be sufficient to provide for the total normal cost of the benefits expected to become payable to all members and to amortize any unfunded liability found by application of such actuarial funding method as shall be chosen for such purpose by the consolidated public retirement board, over such a period of years as shall be deemed actuarially appropriate. When proposing a rule for promulgation which relates to the amount of employer contribution, the board may promulgate rules by emergency pursuant to the provisions of article three, chapter twenty-nine-a, if the inability of the board to increase employer contributions will detrimentally effect the actuarial soundness of the retirement system. A signed statement from the state actuary will accompany
the statement of facts and circumstances constituting an emergency which must be filed in the state register. For purposes of this section, subdivision (2), subsection (a) shall not be applicable to the secretary of state's determination of whether an emergency rule should be approved.

In no year may the total of the contributions provided for in this section, to be paid by any participating public employer exceed, ten and five-tenths percent of the total payroll for the members in the employ of such participating 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

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 bill approved this the 30th day of ........................, 1994.

Governor