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# Private Acts of 1949 Chapter 155

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Sincerely,

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# Private Acts of 1949 Chapter 155

**SECTION 1.** That Chapter 503 of the Private Acts of 1941, the caption of which is set out in the caption of this Act, be, and the same is, hereby amended by striking out all of the said Act following the caption, and substituting in lieu thereof the following:

**SECTION 1.** That there is hereby created a system for retirement and pension for all teachers and other employees of Boards of Education in all counties having a population of not less than 250,000 nor more than 260,000 inhabitants, according to the Federal Census of 1940, or any subsequent Federal Census, who have reached the age of sixty (60) years or more, and have been employed immediately preceding said retirement for the periods as hereinafter set out.

**SECTION 2.** That for the purpose of this Act all teachers and employees of said County Boards of Education whose salaries, wages or compensation are a charge against and payable from school funds administered by said County Boards of Education shall be entitled to benefits of the retirement plan and compensation herein established; provided, however, that employees employed after April 15, 1961, in positions other than those embraced within the meaning of the term "teaching personnel", who, at the time of employment, shall have attained the age of forty-six (46) years, are expressly excluded from the rights and benefits provided in this Act.

As amended by: Private Acts of 1961, Chapter 231

**SECTION 3.** That the County Boards of Education be and each one is hereby constituted a commission to be known as the "Retirement and Pension Board" for the determination of eligibility for retirement compensation or pension for teachers and other employees of County Boards of Education.

**SECTION 4.** That any person desiring to be retired under the provisions of this Act who has had the years of service as hereinafter defined with any County Board of Education by whom he or she is to be retired, and shall have reached the age of sixty years or more shall file with the "Retirement and Pension Board" a petition setting forth in detail his employment record, with a request to be retired, accompanied by a certification of the County Auditor, or other satisfactory evidence as to the correctness of his or her employment record. The said "Retirement and Pension Board" shall determine whether such person is entitled to draw compensation, and the amount thereof, which petition, auditor's certificate or other satisfactory evidence and the order of the "Retirement and Pension Board" shall be spread upon the minutes of said "Retirement and Pensions Board". The decision of said Board shall be final and conclusive, except that any one aggrieved by the action of the Board may have such action reviewed in the manner provided by Sections 9008 to 9018 of the Code of 1932.

**SECTION 5.** That it shall be the duty of said County Board of Education annually to provide in their respective budgets, high school and elementary, a sum sufficient to pay all retirement benefits of elementary and high school teachers and employees, respectively, and it shall be the duty of the Quarterly County Court to approve such budget items, and it shall be the duty of said County Boards of Education, sitting as a "Retirement and Pension Board" to issue warrants chargeable to the said budgeted pension fund in payment of said retirement compensation or pension, as so found and fixed by said Board.

**SECTION 6.** That casual or temporary employees shall not be affected by this Act, and regular employees, as distinguished from casual employees, shall include all regular employees receiving salaries, wages or compensation where such employment has been regular and was either for as much as One Hundred Eighty (180) Days per annum during said period of service as an employee of County Board of Education, or for the full term for which the schools were operated; provided, however, that none of the provisions of this Act shall apply to part time employees, who are hereby defined as employees working less than forty hours per week, excluding teachers, and school bus drivers.

As amended by: Private Acts of 1955, Chapter 306

**SECTION 7.** That said retirement compensation shall not be treated as insurance and said payments when due shall be exempt from the debts of such employee and shall not be subject to attachment, garnishment, execution or other legal process while in the hands of the County or the employee or beneficiary, but that same shall be received by such employee or beneficiary free from the debts, judgments and demands against him.

**SECTION 8.** That for the purpose of creating a fund to be known as the "Employee Pension and Insurance Fund", the County Boards of Education and the employees of the County Boards of Education are required to contribute the percentage of salaries and compensation as herein provided. The funds shall be paid to the Trustee of the County and be held by him as a special fund for the purposes of this Act, and shall be designated "School Pension Fund". The Trustee shall pay out such fund upon warrants issued by the County Boards of Education. It shall be the duty of the County Auditors on request of the County Boards of Education to estimate the amount of charges against said funds for any annual period

and the County Boards of Education will retain a sufficient amount with the current collections to provide for the payment of such charges. The balance in such fund so required shall be from time to time invested by the Trustee of said County in Federal, State of Tennessee, and County bonds, and the net income received from such investments added to the corpus of such fund in the hands of the Trustee.

**SECTION 9.** That said counties shall contribute to such employees' pension and insurance fund created in the preceding section of this Act the amount of three (3) per cent of the current salaries and compensation of employees of said County Boards of Education, subject to this Act, payable quarterly to this fund, and such additional amounts as may be necessary hereunder to be sufficient to enable the payment from said Fund of all matured benefits provided by this Act as the same accrue. And there shall be included in the annual tax levy of said counties, a sum sufficient to pay such contributions of the County, and such additional amounts as may be necessary, into such funds.

**SECTION 10.** That all employees as above defined shall contribute to such Fund three (3%) per cent of the salaries and compensation received hereafter during their employment, payable monthly, subject to other provisions hereof.

The basis of benefits to be received by any employee hereunder shall be the percentages specified upon the highest salary or compensation for any year of service received by such employee during his service with the County, or upon the highest salary or compensation paid such person by the County, and on which he has made contributions under this Act.

Provided, however, the minimum benefit received by any employee or pensioner hereunder shall be the sum of One Hundred (\$100.00) Dollars per month.

Tenure of service as herein contemplated shall be based upon the aggregate of accumulated employment for which the County has in whole or in part compensated such person or employee or official before and/or after the passage of this Act, and shall not be limited to continuous employment, and such services may consist of the aggregate employment or service before and/or after the passage of this Act, in different positions, independent offices or departments where all or any part of salary or compensation has been paid by the County, or some governmental agency for services performed in said County.

Any teacher or employee of said County Boards of Education who shall have had his or her tenure of employment with such County Boards of Education interrupted by a period of military service for the United States and from which he or she was separated with honor shall have such period of military service counted in their total years of retirement pension benefits, just as if he or she had remained on the job with such County Boards of Education, provided his or her employment was duly resumed with such County Boards of Education within one year following such honorable separation from such service.

Provided, however, that employees hired by said Boards from and after the effective date of this Act shall not be entitled to the benefit of the minimum pension of \$100.00 unless such employee has received during such employment an annual salary equal to at least \$2,400.00.

As amended by:

Private Acts of 1951, Chapter 366

Private Acts of 1955, Chapter 99

Private Acts of 1955, Chapter 306

Private Acts of 1961, Chapter 417

**SECTION 11.** That it shall be the duty of the Department of Education of said counties to prepare on or before May 1, 1949, a complete list of all employees in said departments showing the length of their service, the time first employed by the County, their exact age, and the amount of their wage or compensation, which list shall on or before May 1, 1949, be audited and verified by county auditors and their report thereon submitted to the School "Retirement and Pension Board". From such certified reports there shall be prepared a roll of employees showing the name, age, and the service of each employee of the County as of May 1, 1949, and the salary and compensation of each employee, upon which the contribution of said Fund shall be based and the percentage of such salary and compensation to be contributed by each employee, subject to future change.

The payments and contributions to such Fund shall begin on May 1, 1949, but no payments or allowances shall be made out of such Fund until September 1, 1949, thereafter, provided, that eligibility of all officers and employees for benefits hereunder shall commence as of May 1, 1949, except as hereinafter provided.

When an officer or employee becomes eligible for payment from such Fund, the School "Retirement and Pension Plan" shall certify such fact to the Trustee, showing the amount to be paid and the basis of such payment.

It shall be the duty of the officials charged with the duties of paying salaries and compensation to officers and employees hereby affected, to deduct from the monthly salary of such person the percentage herein provided, and to pay such amounts to the Trustee on receivable warrants through the County Judge's office, to be credited to the School "Pension and Retirement Fund". It shall be the duty of the County

Board of Education, through its Chief Clerk or Bookkeeper, to keep a complete record of the amounts paid in by, or on behalf of, any officer or employee and of the benefits or pension paid him, to be subject to the inspection of any person interested during business hours.

**SECTION 12.** That any officer or employee subject to this Act who received a bodily injury through accidental means and resulting directly, indirectly and exclusively of all other causes, during the time he is engaged in the regular duties of his employment, and who is thereby disabled from performing the duties of his employment, shall be entitled to receive from such "Employees' Insurance Fund" compensation in such amount not in excess of One Hundred and Fifty (\$150.00) Dollars per month in any case, and for such term and in such amount as provided for similar cases by the Workmen's Compensation Law of Tennessee, but this section shall apply only to the injured employee and not to dependents; provided, that any employee who has served five (5) years or more and receives an accidental injury, as defined in this section, whereby he is totally and permanently disabled from performing the duties of his employment, shall at his option receive compensation as herein provided, or shall be entitled to retirement on the basis herein provided for similar service, tenure or disability, or provided in Section 13 hereof.

**SECTION 13.** That any employee who has served five (5) years and less than ten (10) years who becomes totally and permanently disabled in the position occupied, and in the manner set forth in Section 12 hereof, shall be retired and shall receive compensation from the "Employees' Insurance Fund", based upon thirty (30% per cent of his salary and compensation as fixed for the purpose of paying contributions to such Fund.

Any employee who has served ten (10) years and less than fifteen (15) years, and has become likewise totally and permanently disabled, shall be retired, and shall receive compensation from the "Employees' Insurance Fund" based upon thirty-five (35%) per cent of his salary and compensation as fixed for the purpose of paying contributions to such Fund.

Any employee who has served fifteen (15) years and less than twenty (20) years and has become likewise totally and permanently disabled, shall be retired, and shall receive compensation from the "Employees' Insurance Fund" based upon forty (40%) per cent of his salary and compensation as fixed for the purpose of paying contributions to such Fund.

Any employee who has served twenty (20) years and less than twenty-four (24) years and has become likewise totally and permanently disabled shall be retired and shall receive compensation from the "Employees' Insurance Fund" based upon forty-five (45%) per cent of his salary and compensation as fixed for the purpose of paying contributions to such Fund.

Any employee who has served twenty-four (24) years or more who has not reached the retirement age, and who has become likewise totally and permanently disabled, shall be retired and shall receive compensation based upon fifty (50%) per cent of his salary and compensation as fixed for the purpose of paying contributions to such Fund. Any person retired under this section shall be relieved of further contributions to such Fund from and after such retirement.

**SECTION 14.** That any officer or employee who has served for twenty-four (24) years and has reached the age of sixty (60) years may, at his option, retire and shall receive compensation from such "Employees' Insurance Fund", based upon fifty (50%) per cent of his salary and compensation as fixed for the purpose of paying contributions to such Fund, subject to Section 13 of this Act.

**SECTION 15.** That all such officers and employees who have served fifteen (15) years or more, and have not reached the retirement age, who become involuntarily separated from the service as herein provided, or whose term of office expire, or who resign, and not by removal for cause on charges of misconduct or delinquency, shall have the right to elect (a) to be reimbursed three-fourths of the amount of the contributions made to the fund by such employee less deduction of all benefits received, or (b) to continue to make the same contributions to the fund as were made immediately prior to said separation from the service, as aforesaid, until retirement age is reached as provided in Section 14 of this Act, at which time retirement with full compensation may be had, or (c) to accept retirement compensation to which he is entitled by his length of service, or (d) to defer, pending reemployment by the County and restoration to full compensation rights. The right to make election or change his election under paragraphs (a), (b) and (c) shall continue at the option of the affected employee.

Any retired employee who receives payments under this Act and who accepts a position covered by this Pension Plan shall not receive payments under the Pension Act during the time he is paid compensation by the County; provided, however, that any teacher who is retired under the provisions of this Act may serve as substitute teacher in a county school system of said county and draw compensation therefor for not more than sixty days during any school year and at the same time continue to draw benefits as provided under this Act.

As amended by:

Private Acts of 1961, Chapter 407

**SECTION 16.** That every teacher or other employee as defined in this Act shall be obligated to make contributions to such fund as herein provided, and the County, through its authorized agents, shall enforce the collections; and notwithstanding such obligations of the employees, if any employee should be in default of the payment of such obligation for the period of thirty (30) days, after demand is made upon such person for payment, he shall be treated as suspended from all benefits of such insurance fund for the period of default and six (6) months thereafter, and shall lose all benefits of disability or separation occurring during such suspended period; provided, however, that such contributions shall not be required of part time employees as defined in Section 6 hereof.

As amended by: Private Acts of 1955, Chapter 506

**SECTION 17.** That (a) when any officer or employee subject to the provisions of this Act shall be separated from employment for any reason, resignation or otherwise, except for discharge for delinquency or misconduct, without having served as much as twenty-four (24) years, and who has not reached the age of sixty (60) years, he shall be entitled to a refund of seventy-five (75%) per cent of the amounts which he may have contributed to the said "Employees' Insurance Fund", after deduction of the amount of any and all benefits theretofore received by him from said fund.

(b) That any officer or employee subject to this Act who shall have served as herein provided for a period of fifteen (15) years and who has reached the age of sixty (60) years who is deprived of his employment without fault on his part, or is separated from the service by expiration of his term of office or resignation, may receive thirty (30%) per cent monthly of his compensation or salary. Such persons shall contribute to said fund for a period of fifteen years at the rate of three (3%) of the salary and compensation received for their services, such payments to be made monthly as long as he or she is employed, or receive benefits under this Act, not to exceed fifteen (15) years. For each additional year of service the monthly compensation shall be increased by two (2%) per cent and the time for which contributions are to be made shall be correspondingly increased by one year until the maximum service of twenty-four years has been had and the age of sixty years has been reached.

(c) That any employee subject to the provisions of this Act who shall have become sixty (60) years of age and had twenty-four (24) years of service, as herein provided, may retire with fifty (50%) per cent of his salary and compensation as fixed for the purpose of paying contributions to said fund, to be paid as herein provided. Such persons shall contribute to said fund for a period of twenty-four (24) years at the rate of three (3%) per cent of the salary and compensation received for their services, such payments to be made monthly so long as he or she is employed or receives benefits under this Act, not to exceed twenty-four (24) years.

(d) That any employee subject to the provisions of this Act who shall have had thirty (30) years of service, as herein provided, regardless of age, may retire with fifty (50%) per cent of his salary and compensation as fixed for the purpose of paying contributions to said fund, to be paid as herein provided. Such person shall contribute to said fund for a period of twenty-four (24) years at the rate of three (3%) per cent of the salary and compensation received for his services, such payments to be made monthly as long as he or she is employed or receives benefits under this Act, not to exceed twenty-four (24) years.

(e) In the event of the annexation of territory to the City of Nashville encompassing a school which previously was a part of the school system of Davidson County, any teacher or principal who is teaching in such school as of the date of such annexation and who goes into the school system of the city of Nashville, and any secretary, clerk, janitor or other employee who is working at such school and is employed in the City School System, shall have the following rights, with respect to retirement benefits:

There shall be transferred into and deposited in the Teachers' Pension Fund of the City of Nashville all the amounts previously contributed by any such teacher or principal or by Davidson County or the State of Tennessee on behalf of such teacher or principal into the "Employees' Pension and Insurance Fund" established under this Act. It shall be the duty of the Davidson County School Retirement and Pension Board or other cognizant officials of Davidson County to transfer such funds to the Teachers' Pension Fund of the City of Nashville and to draw all necessary vouchers and to execute any and all other necessary instruments for that purpose.

There shall be transferred into and deposited in the Civil Service Employees' Pension Fund of the City of Nashville all the amounts previously contributed by any such secretary, clerk, janitor or other employee (other than a teacher), or by Davidson County or the State of Tennessee on behalf of such employee into the Employees' Pension and Insurance Fund" established under this Act. It shall be the duty of the Davidson County School Retirement Pension Board or other cognizant officials of Davidson County to transfer such funds into the Civil Service Employees' Pension Fund of the City of Nashville and to draw all necessary vouchers and to execute any and all necessary instruments for that purpose.

Any teacher, principal, secretary, clerk, janitor or other employee who goes under the retirement and pension program of the City of Nashville thereby shall terminate any and all rights of such teacher,

principal, secretary, clerk, janitor or other employee under this Act from and after the transfer of the funds previously contributed by or accruing to the benefit of such teacher, principal, secretary, clerk, janitor or other employee as herein provided.

As amended by: Private Acts of 1961, Chapter 406  
Private Acts of 1961, Chapter 414

**SECTION 18.** That payments to beneficiaries under this Act shall continue during the life of any beneficiary thereto entitled, unless otherwise provided in this Act.

**SECTION 19.** That all employees of the County subject to the provisions of this Act who at the time of the passage of the Act have attained the age of fifty-five (55) years and shall have been employed by the County for a period of less than fifteen (15) years shall have the right to elect not to come within the provisions of this Act. Such election must be in writing and delivered to the County Board of Education, sitting as a School "Retirement and Pension Board" on or before July 1, 1949.

**SECTION 20.** That any officer or employee subject to the provisions of this Act who has served not more than five (5) years and is voluntarily separated from the service, and not by removal for cause on charges of misconduct or delinquency, shall be reimbursed all of the contributions made to the Fund by such employee less deduction of all benefits received hereunder.

Any employee who has serviced as aforesaid less than fifteen (15) years and is involuntarily separated from the service, and not by removal for cause on charges of misconduct or delinquency, shall be reimbursed eighty-five (85%) per cent of the amount of the contributions made to the Fund by such employee less deduction of all benefits received hereunder.

**SECTION 21.** That whenever any officer or employee of the County subject to the benefits under the provisions of this Act shall, in the line and course of his employment, and in the actual discharge of the duties of his position, sustain personal injuries by external and violent means or by accident, resulting in the death of such employee within twelve (12) months from the time such personal injuries were sustained, the County shall pay within sixty (60) days after the death of such employee to the widow of such deceased employee, or to the personal representative of such deceased employee, if he leaves no surviving widow, for the benefit of the minor child or children, of such deceased employee, or to the personal representative of such deceased employee for the benefit of the estate of such deceased employee, if such deceased employee leave surviving him no minor child or children, or if such deceased employee be a person of the female sex, the sum of Two Hundred and Fifty (\$250.00) Dollars and a similar sum every ninety (90) days thereafter until the sum of One Thousand (\$1,000.00) Dollars is paid. No such payment shall be made in the case of the death of any such employee where the personal injuries resulting in his death were due to the willful misconduct, intoxication, use of narcotic drugs, or disobedience of orders on the part of such employee, or while traveling to or from his work in any manner, or were intentionally self-inflicted by such employee, or the death of such employee was due to any sickness or disease by such employee. No member of any board or commission created by law, nor any contractor, nor employee of any contractor, shall be deemed to be within the meaning of the phrase "Employee of the County", as used herein. Written notice of such personal injuries shall be given to the "Retirement and Pension Board" by or on behalf of such employee within thirty (30) days after such personal injuries were sustained.

The commission known as the School "Retirement and Pension Board", in the event of any such claim made for payment under the provisions of this section, shall make or cause to be made full investigation of the facts relevant to the claim, and shall determine whether or not the claim is legally and properly payable; and may, in its discretion, in any case, hold a public hearing, upon five days notice given to the person or persons making the claim, and may summon and examine witnesses and her testimony and receive and consider evidence, and allow proponents of the claim to be represented by counsel and to introduce witnesses and evidence. The decision of the Board on all questions of fact involved in any claim under the provisions of this section shall be final, and shall be subject to review only for illegality or want of jurisdiction. The Board shall cause to be entered upon its minutes a record of its action upon any claim.

All payment pursuant thereto shall be free from the claim of creditors, and not subject to attachment, garnishment or other processes of law.

The foregoing provisions for the payment of death benefits shall apply to all persons coming within the provisions of this Act, or employed by all boards, commissions or departments coming under the class entitled to benefits under the retirement and pension plan.

**SECTION 22.** That should any part of this Act be declared invalid, as applying to certain employees of the County, the remaining part of the Act legally applying to other employees shall be treated as separable and valid.

**SECTION 23.** That this Act shall receive a liberal interpretation and construction to carry into effect the

purpose thereof.

**SECTION 24.** That all employees of said Boards of Education heretofore retired under the provisions of Chapter 503 of the Private Acts of 1941 shall continue to receive the pension benefits to which they are entitled thereunder, and provided, further, that any retirements prior to May 1, 1949, shall be under said original Act, as amended prior to this amendment.

**SECTION 25.** That this Act take effect, except as hereinabove provided, on May 1, 1949, the public welfare requiring it.

Passed: February 11, 1949.

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