

## WEST VIRGINIA CODE: §15-2A-19

### **§15-2A-19. Credit toward retirement for member's prior military service; credit toward retirement when member has joined Armed Forces in time of armed conflict; qualified military service.**

(a) Any member who has previously served on active military duty is entitled to receive additional credited service for the purpose of determining the amount of retirement award under the provisions of this article for a period equal to the active military duty not to exceed five years, subject to the following:

- (1) That he or she has been honorably discharged from the Armed Forces;
- (2) That he or she substantiates by appropriate documentation or evidence his or her period of active military duty;
- (3) That he or she is receiving no benefits from any other retirement system for his or her active military duty; and
- (4) That, except with respect to disability retirement pay awarded under this article, he or she has actually served with the agency for twenty years exclusive of his or her active military duty.

(b) In addition, any person who, while an employee of the agency, was commissioned, enlisted or inducted into the Armed Forces of the United States or, being a member of the reserve officers' corps, was called to active duty in the Armed Forces between September 1, 1940, and the close of hostilities in World War II, or between June 27, 1950, and the close of the armed conflict in Korea on July 27, 1953, between August 1, 1964, and the close of the armed conflict in Vietnam, or during any other period of armed conflict by the United States whether sanctioned by a declaration of war by Congress or by executive or other order of the President, is entitled to and shall receive credit on the minimum period of service required by law for retirement pay from the service of the agency, or its predecessor agency, for a period equal to the full time that he or she has or, pursuant to that commission, enlistment, induction or call, shall have served with the Armed Forces subject to the following:

- (1) That he or she has been honorably discharged from the Armed Forces;
- (2) That, within ninety days after honorable discharge from the Armed Forces, he or she presented himself or herself to the superintendent and offered to resume service as an active member of the agency; and
- (3) That he or she has made no voluntary act, whether by reenlistment, waiver of discharge, acceptance of commission or otherwise, to extend or participate in extension of the period of

service with the Armed Forces beyond the period of service for which he or she was originally commissioned, enlisted, inducted or called.

(c) The total amount of military service credit allowable under this section may not exceed five years for any member of the agency.

(d) Notwithstanding the preceding provisions of this section, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414 (u) of the Internal Revenue Code. For purposes of this section, "qualified military service" has the same meaning as in Section 414 (u) of the Internal Revenue Code. The board shall determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the board in section one, article ten-d, chapter five of this code, may promulgate rules relating to contributions, benefits and service credit to comply with Section 414 (u) of the Internal Revenue Code.