WEST VIRGINIA CODE: §16-5V-35

§16-5V-35. Return to covered employment by retirant.

(a) Subject to the provisions of subsection (b) of this section, the annuity of any member who retires under the provisions of this article and who resumes service in covered employment shall be suspended while the member continues in covered employment. If there has been a bona fide separation from service upon retirement, the monthly annuity payment for the month in which the service resumes shall be pro-rated to the date of commencement of service, and the member shall again become a contributing member during resumption of service. At the conclusion of resumed service in covered employment the member shall have his or her annuity recalculated to take into account the entirety of service in covered employment.

(b) Notwithstanding any provision of this article to the contrary, a retirant who becomes employed by a participating public employer after the effective date of his or her retirement must have a bona fide separation from service upon retirement to be eligible for an annuity under the plan. If a retirant fails to have a bona fide separation from service upon retirement or if such retirant or the participating public employer fails to comply with subsection (c) of this section in a manner satisfactory to the board, then the member's retirement shall be voided and the member shall repay to the system the gross amount of all annuity payments received related to such voided retirement. The board may take any actions necessary or appropriate in accordance with the provisions of §16-5V-8a to recover such annuity payments so that an in-service distribution is not deemed to have been made.

(c) Prior to any retirant subsequently becoming reemployed by a participating public employer, including on a permanent, full-time, part-time, substitute, per diem, temporary or leased employee basis, the participating public employer shall notify the board and the retirant, in writing, if and when any such potential employment will negatively impact the retirant's retired status or benefits. Upon the retirant's acceptance of such employment, the participating public employer shall notify the board, in writing, of the retirant's subsequent employment. The retirement board may also require of retirants and the participating public employer such reports, forms and verifications as it deems necessary to ensure that a bona fide separation from service upon retirement has occurred.

(d) Any retirant who retired under the early retirement provisions of §16-5V-16 of this code, and is subsequently reemployed in covered employment pursuant to this section, and who again retires shall have his or her retirement annuity recalculated as if he or she were retiring at an age calculated by adding his or her original early retirement age to the number of years and months during which he or she was reemployed and contributing to the plan. In the event the artificially determined age, as determined in accordance with the preceding sentence, exceeds 60, the board shall not make any reduction for early retirement.

WV Legislature