

# WEST VIRGINIA CODE: §18-7A-17B

## **§18-7A-17b. Military service credit for members of the West Virginia National Guard.**

(a)(1) The Legislature recognizes the men and women who have dedicated themselves to the defense and service of this state through their service in the West Virginia National Guard. It is the intent of this section to confer military service credit upon members of the Teachers Retirement System for any time served in the West Virginia National Guard when they meet the requirements of this section.

(2) In addition to any benefit provided by federal law, any active member of the retirement system who currently or previously has served in the West Virginia National Guard may purchase credited service for the time served in the West Virginia National Guard, not to exceed sixty months if the following conditions are met:

(A) The active member substantiates by appropriate documentation or evidence his or her service in the West Virginia National Guard;

(B) The active member has completed a complete fiscal year of contributory service to the retirement system on or after July 1, 2015; and

(C) The employee pays to the retirement system the actuarial reserve purchase amount within forty-eight months after July 1, 2015, if he or she was employed with an employer during a complete fiscal year in fiscal year 2016 or the first date on which employer and employee contributions are received by the retirement system for the member for a complete fiscal year if he or she was not employed with an employer for a complete fiscal year during fiscal year 2016 and while he or she continues to be in the employ of an employer and contributing to the retirement system: Provided, That any member who ceases employment with an employer before completing the required actuarial reserve purchase amount in full is not eligible to purchase the military service.

(3) Any member of the retirement system who serves, or has served, in the West Virginia National Guard may purchase one month of military service credit for every fifteen points earned toward a reserve component retirement during a qualifying year as computed in subdivision (7) of this subsection. For purposes of this section, points will be verified using the National Guard Current Annual Statement, Point Credit Summary or other equivalent document, along with any documentation of any periods of active service with the State of West Virginia as verified by the Adjutant General's office. All documentation will be submitted to the retirement board by the active member.

(4) In no event, however, may a member purchase or receive a total of more than sixty months of military service credit under this section, section seventeen-a, article seven-a, chapter eighteen; or any other retirement system administered by the retirement board.

(5) In any case of doubt as to the period of service to be credited a member under the provisions of this section, the retirement board shall have the final power to determine the period.

(6) To receive credit, an active member must submit a request to purchase military service credit to the retirement board, on such form or in such other manner as shall be required by the retirement board, within the complete fiscal year required by this subsection or by October 31, 2016, whichever occurs later. The retirement board shall then calculate the actuarial reserve lump sum purchase amount, which amount must be paid by the employee within the forty-eight-month period required by this subsection, as applicable. An active member purchasing military service credit pursuant to this subsection must do so in a single, lump sum payment: Provided, That the retirement board may accept partial installments or other similar payments if the employee executes a contract with the board specifying the amount of military service to be purchased and the payments required: Provided, however, That any failure to pay the contract amount in accordance with this section shall be treated as an overpayment or excess contribution subject to section fourteen-c of this article and no military service shall be credited.

(7) To calculate the amount of military service credit an active member may purchase, the retirement board shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded up), in order to yield the total number of months of military service credit an active member may purchase, subject to the sixty-month maximum. An active member may purchase in one-month increments all or part of the maximum amount of military service credit for which he or she is eligible.

(8) If a member who has purchased military service credit pursuant to this subsection is eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or she paid to the retirement system to purchase military service credit, together with regular interest on the amount.

(9) Military service credit purchased pursuant to this subsection may not be considered contributing service credit or contributory service for purposes of this article.

(b)(1) Active members of an employer who continue concurrently in active service of the State of West Virginia with the West Virginia National Guard after the eligible period to purchase military service credit as set forth in subsection (a) of this section, or active members who join the West Virginia National Guard after participation in the retirement system has commenced may purchase military service credit earned after the service computed under subsection (a) of this section up to the sixty-month maximum in every even calendar year following if the following conditions are met:

(A) The active member substantiates by appropriate documentation or evidence his or her service in the West Virginia National Guard;

(B) The active member has completed a complete fiscal year of contributory service to the retirement system in the prior odd year; and

(C) The active member pays to the retirement system the actuarial reserve purchase amount within three months from the date of the cost letter provided by the retirement board and while he or she continues to be in the employ of an employer and contributing to the retirement system: Provided, That a member who ceases employment with an employer before completing the required actuarial reserve purchase amount in full is not eligible to purchase the military service credit.

(2) Any member of the retirement system who serves or has served in the West Virginia National Guard may purchase one month of military service credit for every fifteen points earned toward a reserve component retirement during a qualifying year as computed in subdivision (6) of this subsection. For purposes of this section, points will be verified using the Army National Guard Current Annual Statement, Point Credit Summary or other equivalent document, along with any documentation of any periods of Active service with the State of West Virginia as verified by the Adjutant General's Office. All documentation shall be submitted to the retirement board by the active member.

(3) In no event, however, may a member purchase or receive a total of more than sixty months of military service credit under this section, section seventeen-a, article seven-a, chapter eighteen, or any other retirement system administered by the retirement board.

(4) In any case of doubt as to the period of service to be credited a member under the provisions of this section, the retirement board shall have final power to determine the period.

(5) To receive credit, an active member must submit a request to purchase military service credit to the retirement board, on such form or in such other manner as shall be required by the retirement board, by October 31 of each even calendar year following the years computed under subsection (a) of this section. The retirement board shall then calculate the actuarial reserve lump sum purchase amount, which amount must be paid by the active member within three months from the date of the cost letter provided by the retirement board. An active member purchasing military service credit pursuant to this subsection must do so in a single, lump sum payment.

(6) To calculate the amount of military service credit an active member may purchase, the retirement board shall add the total number of points accrued in a qualifying year, divide the total by fifteen. and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded up), in order to yield the total number of months of military service credit an active member may purchase, subject to the sixty-month maximum. An active member may purchase in one month increments, all or part of the maximum amount of military service credit for which he or she is eligible.

(7) If a member who has purchased military service credit pursuant to this subsection is

eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or she paid to the retirement system to purchase military service credit, together with regular interest on the amount.

(8) Military service credit purchased pursuant to this subsection may not be considered contributing service credit or contributory service for purposes of this article.

(c) For purposes of this section:

(1) "Active service of the State of West Virginia" means full-time state active duty in the West Virginia Army National Guard or the West Virginia Air National Guard when the duty is performed upon orders of the Adjutant General of the West Virginia National Guard or the Governor of West Virginia and which is funded entirely by the state.

(2) "Actuarial reserve purchase amount" means the purchase annuity rate multiplied by the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing at seven and one-half percent from the calculation month through the purchase month, compounded monthly: Provided, That if the employee elects to pay the full purchase amount on an installment or partial payment basis as permitted under subsection (a) of this section, the actuarial reserve purchase amount will include the lump sum payment plus additional interest accruing at seven and one-half percent until the purchase amount is paid in full.

(3) "Calculation month" means the month immediately following the month in which the employee completes a complete fiscal year of contributory service with an employer on or after July 2015 for computations under subsection (a) of this section, or the month immediately following the month in which the employee completes a complete fiscal year of contributory service with an employer in the preceding odd calendar year for computations under subsection (b) of this section.

(4) "Purchase accrued benefit" means two percent times the purchase military service times the purchase average monthly salary.

(5) "Purchase age" means the age of the employee in years and completed months as of the first day of the calculation month.

(6) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of the calculation month based on the following actuarial assumptions:

(A) Interest rate of seven and one-half percent;

(B) Mortality of the 1971 group annuity mortality table, fifty percent blended male and female rates, applied on a unisex basis to all members; and

(C) If purchase age is under age sixty-two, a deferred annuity factor with payments

commencing at age sixty-two; or

(D) If purchase age is sixty-two or over, an immediate annuity factor with payments starting at the purchase age.

(7) "Purchase average monthly salary" means the average monthly salary of the active member during the number of months of the member's contract during the fiscal year of contributory service as required by this section.

(8) "Purchase military service" means the amount of military service being purchased by the active member in months up to the sixty-month maximum, calculated in accordance with subdivision (7) of subsection (a) and subdivision (6) of Subsection (b) of this section.

(9) "Purchase month" means the month in which the active member deposits the actuarial reserve lump sum purchase amount in full payment of the service credit being purchased or makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full payment of the service credit being purchased.

(10) "Qualifying year" means any year in which a member earns the minimum number of points required to receive credit for the year toward retired pay pursuant to Section 12732 of Title 10, United States Code.

(11) "Service in the West Virginia National Guard" means full-time active duty for annual training in the National Guard, Inactive Duty Training, Active Duty Operational Support, Active Duty Special Work, funeral honors, State Active Duty as a member of the West Virginia National Guard or any other similar periods of Title 32 service or active service of the State of West Virginia.

(12) "West Virginia National Guard" means the West Virginia Army National Guard and the West Virginia Air National Guard.

(d) The retirement board is authorized to determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the retirement board in section one, article ten-d of chapter five, may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to administer this section.