WEST VIRGINIA CODE: §18-7B-11

§18-7B-11. Termination of membership.

(a) Any member whose employment with a participating employer terminates after the completion of six complete years of employment service is eligible to terminate his or her annuity account and receive a distribution from the member's annuity account, in an amount equal to the member's contribution plus one third of the employer contributions and any earnings thereon. Any member whose employment with a participating employer terminates after the completion of nine complete years of employment service is eligible to terminate his or her annuity account and receive a distribution from the member's annuity account, in an amount equal to the member's contribution plus two thirds of the employer's contributions and any earnings thereon. Any member whose employment with a participating employer terminates after the completion of twelve complete years of employment service is eligible to terminate his or her annuity account and receive a distribution of all funds contributed and accumulated in his or her annuity account. Any member whose employment with a participating employer terminates prior to the completion of six complete years of employment service is eligible to terminate his or her annuity account and receive a distribution from the member's annuity account, in an amount equal to the member's contribution plus any earnings thereon: Provided, That on the death or permanent, total disability of any member, that member is eligible to terminate his or her annuity account and receive all funds contributed to or accumulated in his or her annuity account.

(b)(1) Upon termination of employment, regardless of whether the member has taken a distribution of all or a portion of his or her vested account, the remaining balance, if any, in the member's employer account that is not vested shall be remitted and paid into a suspension account to be administered by the board. The Board shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code regarding the distribution of any balance in the special account created by this section: Provided, That any funds in the account shall be used solely for the purpose of reducing employer contributions in future years.

(2) Any account balances remitted to the suspension account herein shall be maintained by the board in the suspension account in the name of the terminated employee for a period of five years following the member's termination of employment. For each terminated employee at the culmination of the five-year period, the board shall certify in writing to each contributing employer the amount of the account balance plus earnings thereon attributable to each separate contributing employer's previously terminated employee's account which has been irrevocably forfeited due to the elapse of a five-year period since termination pursuant to section sixteen of this article.

(c) Upon certification to the several contributing employers of the aggregate account balances plus earnings thereon which have been irrevocably forfeited pursuant to this

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section, the several contributing employers shall be permitted in the next succeeding fiscal year or years to reduce their total aggregate contribution requirements pursuant to section seventeen of this article, for the then current fiscal year by an amount equal to the aggregate amounts irrevocably forfeited and certified as such to each contributing employer: Provided, That should the participating employer no longer be contributing to the Defined Contribution System, any funds in the account shall be paid directly to the employer.

(d) Upon the use of the amounts irrevocably forfeited to any contributing employer as a reduction in the then current fiscal year contribution obligation and upon notification provided by the several contributing employers to the board of their intention to use irrevocably forfeited amounts, the board shall direct the distribution of the irrevocably forfeited amounts from the suspension account to be deposited on behalf of the contributing employer to the member annuity accounts of its then current employees pursuant to section seventeen of this article: Provided, That notwithstanding any provision of this article to the contrary, when a member is or has been elected to serve as a member of the Legislature, and the proper discharge of his or her duties of public office requires that member to be absent from his or her teaching, nonteaching or administrative duties, the time served in discharge of his or her duties of the legislative office are credited as time served for purposes of computing service credit, regardless when this time was served: Provided, however, That the board may not require any additional contributions from that member in order for the board to credit him or her with the contributing service credit earned while discharging official legislative duties: Provided further, That nothing herein may be construed to relieve the employer from making the employer contribution at the member's regular salary rate or rate of pay from that employer on the contributing service credit earned while the member is discharging his or her official legislative duties. These employer payments shall commence as of July 1, 2003: And provided further, That any member to which the provisions of this subsection apply may elect to pay to the board an amount equal to what his or her contribution would have been for those periods of time he or she was serving in the Legislature.

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