WEST VIRGINIA CODE: §18-7D-5

§18-7D-5. Conversion of assets from Defined Contribution Retirement System to State Teachers Retirement System; contributions; loans.

(a) If at least sixty-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System affirmatively elect to transfer to the state Teachers Retirement System within the period provided in section seven of this article, then the Consolidated Public Retirement Board shall transfer the members and all properties held in the Teachers' Defined Contribution Retirement System's Trust Fund in trust for those members who affirmatively elected to do so during that period to the state Teachers Retirement System, effective on July 1, 2008: Provided, That the board shall, for any member whose election to transfer was received by the board after May 12, 2008, but on or before May 20, 2008, and has not been certified as accepted by the board on or before the effective date of the amendments to this section enacted during the second extraordinary session of the Legislature, 2008, effectuate the transfer as provided in this subsection on August 1, 2008.

(b) The board shall make available to each member a loan for the purpose of paying all or part of the Actuarial Reserve, or if available in accordance with the provisions of subsection (d), section six of this article, the one and one-half percent contribution for service in the Teachers' Defined Contribution System to receive additional service credit in the state Teachers Retirement System for service in the Teachers' Defined Contribution Retirement System pursuant to section six of this article. The loan shall be offered in accordance with the provisions of section thirty-four, article seven-a of this chapter.

(1) Notwithstanding any provision of this code, rule or policy of the board to the contrary, the interest rate on any loan may not exceed seven and one-half percent per annum. The total amount borrowed may not exceed $40,000: Provided, That the loan may not exceed the limitations of the Internal Revenue Code Section 72(p).

(2) In the event a loan made pursuant to this section is used to pay the Actuarial Reserve or the one and one-half percent contribution, as the case may be, the board shall make any necessary adjustments at the time the loan is made.

(3) The board shall make this loan available to any member who has provided to the board by the effective date of the amendments to this section enacted in the 2009 regular legislative session a signed verification of cost for service credit purchase form until June 30, 2009, or no later than ninety days after the postmarked date on a final and definitive contribution calculation from the board, whichever is later.

(c) The board shall develop and institute a payroll deduction program for repayment of the loan established in this section.

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(d) If at least sixty-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System affirmatively elect to transfer to the state Teachers Retirement System within the period provided in section seven of this article:

(1) As of July 1, 2008, or August 1, 2008, as the case may be, the transferred members' contribution rate becomes six percent of his or her salary or wages; and

(2) All transferred members who work one hour or more and who make a contribution into the state Teachers Retirement System on or after July 1, 2008, are governed by the provisions of article seven-a of this chapter, subject to the provisions of this article.

(e) Subject to the provisions of subdivision (1) of this subsection, if a member has withdrawn or cashed out part of his or her assets, that member will not receive credit for those moneys cashed out or withdrawn. The board shall make a determination as to the amount of credit a member loses based on the periods of time and the amounts he or she has withdrawn or cashed out, which shall be expressed as a loss of service credit.

(1) A member may repay those amounts he or she previously cashed out or withdrew, along with interest as determined by the board, and receive the same credit as if the withdrawal or cash-out never occurred. To receive full credit for the cashed-out or withdrawn amounts being repaid to the state Teachers Retirement System, the member also shall pay the actuarial reserve, or the one and one-half percent contribution, as the case may be, pursuant to section six of this article.

(2) The loan provided in this section is not available to members to repay previously cashed out or withdrawn moneys.

(3) If the repayment occurs five or more years following the cash-out or withdrawal, the member also shall repay any forfeited employer contribution account balance along with interest determined by the board.

(f) Notwithstanding any provision of subsection (e) to the contrary, if a member has cashed out or withdrawn any of his or her assets after June 30, 2003, and that member chooses to repurchase that service after June 30, 2008, the member shall repay the previously distributed amounts and any applicable interest to the state Teachers Retirement System.

(g) Any service in the state Teachers Retirement System a member has before the date of the transfer is not affected by the provisions of this article.

(h) The board shall take all necessary steps to see that the voluntary transfers of persons and assets authorized by this article do not affect the qualified status with the Internal Revenue Service of either retirement plan.

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