WEST VIRGINIA CODE CHAPTER 18 ARTICLE 7D

WV Legislature

§18-7D-1. Legislative findings and purpose.

(a) The Legislature hereby finds and declares as follows:

(1) That the quality of this state's education system is largely dependent upon the quality of its teachers and educational service personnel;

(2) That many West Virginia teachers and education service personnel who currently are members of the Teachers' Defined Contribution Retirement System desire to join a defined benefit system, which relieves participants of bearing the risk of investment performance and offers the security of providing participants with advanced knowledge of their anticipated retirement benefit;

(3) That other members of the Teachers' Defined Contribution Retirement System remain comfortable with bearing the attendant market risks and performance of their investments associated with managing the individual retirement accounts of that system;

(4) That it is in the best interests of the teachers and education service personnel in this state, as well as the state's system of public education as a whole, to permit members of the Teachers' Defined Contribution Retirement System to voluntarily elect membership in the state Teachers Retirement System pursuant to the provisions of this article; and

(5) That the prudent and fiscally sound management of the state Teachers Retirement System necessitates that a sufficient number of members of the Teachers' Defined Contribution Retirement System elect to voluntarily transfer their assets to the state Teachers Retirement System in accordance with the provisions of this article.

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§18-7D-2. Definitions.

As used in this article, unless the context clearly requires a different meaning:

(1) "Actively contributing member of the Teachers' Defined Contribution Retirement System" means a member of that retirement system who was actively contributing to the Teachers' Defined Contribution Retirement System on December 31, 2007.

(2) "Actuarial Reserve" means the Actuarial Reserve Lump Sum Value of the additional service credit being purchased by a member so electing in accordance with the provisions of section six of this article.

(3) "Actuarial Reserve Adjusted Salary" means either:

(A) For a member with a full year service credit in the fiscal year ending June 30, 2007, the member's 2007 fiscal year salary increased by seven percent;

(B) For a member with less than a full year service credit in the fiscal year ending June 30, 2007, the member's 2007 fiscal year salary annualized to a full year based on the partial year service credit increased by seven percent; or

(C) For a member without service credit in the fiscal year ending June 30, 2007, the member's annualized contract salary in effect on December 31, 2007 increased by seven percent, or the member's annual contract salary on the date of rehire if after December 31, 2007.

(4) "Actuarial Reserve Benefit Date" means the first day of the month coincident with or next following the date at which the member attains the age of sixty, or June 30, 2009, whichever is later.

(5) "Actuarial Reserve Benefit Date Factors" mean the actuarial lump sum value factors based on a life only annuity starting on the Actuarial Reserve Benefit Date applying the 1983 Group Annuity Mortality Tables on a seventy-five percent female and a twenty-five percent male blended Unisex basis and interest at seven and one-half percent.

(6) "Actuarial Reserve Discount Factor" means the annual discount factor applied for the period between June 30, 2009 and the Actuarial Reserve Benefit Date, if any. Such factor based on the state Teachers Retirement System actuarial valuation assumptions shall estimate the impact of mortality, disability, and economic factors for such discount period by application of a net four percent discount rate.

(7) "Actuarial Reserve Lump Sum Value" means a single sum amount calculated as: A benefit of two percent multiplied by the Defined Contribution Retirement System service credit being purchased multiplied by the Actuarial Reserve Adjusted Salary; such benefit multiplied by the Actuarial Reserve Benefit Date Factors to determine the lump sum value multiplied by the Actuarial Reserve Discount Factor.

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(8) "Affirmatively elect to transfer" means the voluntary execution and delivery to the Consolidated Public Retirement Board, by a member of the Teachers' Defined Contribution Retirement System of a document in a form prescribed by the board that irrevocably authorizes the board to transfer the member and all the member's assets in the Teachers' Defined Contribution Retirement System to the state Teachers Retirement System: Provided, That delivery of the document to the Consolidated Public Retirement Board may be accomplished through submission of the document to the supervisor of a work site pursuant to section seven of this article: Provided, however, That any previous member of the state Teachers Retirement System who voluntarily elected to terminate his or her membership in the state Teachers Retirement System to become a member of the Teachers' Defined Contribution Retirement System and signed an irrevocable transfer request also may affirmatively elect to transfer notwithstanding the prior transfer request.

(9) "Assets" means all member contributions and employer contributions made on the member's behalf to the Defined Contribution Retirement System and earnings thereon, less any applicable fees as approved by the board: Provided, That if a member has withdrawn or cashed out any amounts, the amounts must have been repaid.

(10) "Board" means the Consolidated Public Retirement Board established in article ten-d, chapter five of this code, and its employees.

(11) "Date of transfer" means, in the event that sixty-five percent or more of the actively contributing members of the Defined Contribution Retirement System affirmatively elect to transfer to the state Teachers Retirement System within the period provided in section seven of this article, July 1, 2008: Provided, That 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, "date of transfer" means August 1, 2008.

(12) "Defined Contribution Retirement System" means the Teachers' Defined Contribution Retirement System established in article seven-b of this chapter.

(13) "Member" means any person who has an account balance standing to his or her credit in the Teachers' Defined Contribution Retirement System.

(14) "Salary" means:

(A) For a member contributing to the Defined Contribution Retirement System during the 2007 fiscal year, the actual salary earned for the 2007 fiscal year divided by the employment service earned in the 2007 fiscal year.

(B) For a member not contributing to the Defined Contribution Retirement System during the 2007 fiscal year, the contract salary on the date of rehire.

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(15) "State Teachers Retirement System" means the state Teachers Retirement System established in article seven-a of this chapter.

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§18-7D-3. Voluntary transfers.

(a) In accordance with the provisions of this article, the Consolidated Public Retirement Board shall effect the voluntary transfer of members of the Teachers' Defined Contribution Retirement System to the state Teachers Retirement System.

(b) If at least sixty-five percent of actively contributing members of the Teachers' Defined Contribution 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 to the state Teachers Retirement System, effective July 1, 2008, all members who affirmatively elected to do so during that period. If at least sixty-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System do not affirmatively elect to transfer to the state Teachers Retirement System within that period, the Defined Contribution Retirement System continues as the retirement system for all members in that system as of June 30, 2008.

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§18-7D-4. Notice, education, record-keeping requirements.

(a) Commencing not later than April 1, two thousand eight, the board shall begin an educational program with respect to the voluntary transfer of actively contributing members of the Teachers' Defined Contribution Retirement System and their assets to the state Teachers Retirement System.

(1) This educational program shall address, at a minimum:

(A) The law providing for the transfer;

(B) The mechanics of the transfer;

(C) The process by which an actively contributing member may affirmatively elect to transfer;

(D) Relevant dates and time periods;

(E) The benefits, potential advantages and potential disadvantages if members fail or refuse to affirmatively elect to transfer;

(F) The benefits, potential advantages and potential disadvantages of becoming a member of the state Teachers Retirement System;

(G) Potential state and federal tax implications attendant to the various options available to the members;

(H) For each member, a summary to include his or her most recent account balance; the average rate of return of the Standard and Poor's and the Lehman U.S. Corporate/Government Index for the previous ten years; the average rate of return of an indexed balanced fund for the previous ten years; the member's projected account balance if he or she retires at age sixty and age sixty-five; the current cost of purchasing a monthly annuity under the Teachers' Defined Contribution Retirement System; the monthly annuity that the member would receive under the Teachers Retirement System if the member chooses to purchase the full service credit and retire at age sixty and age sixty-five; the monthly annuity under the Teachers Retirement System if the participant chooses not to purchase the full service credit and retires at age sixty and age sixty-five, and the potential cost to the member of purchasing the Actuarial Reserve or the one and one-half percent contribution plus accrued interest, as the case may be, not including the cost of obtaining a loan under section five of this article.

(I) Any other pertinent information considered relevant by the board.

(2) The board shall disseminate the information through:

(A) Its website;

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(B) Computer programs;

(C) Written or electronic materials, or both;

(D) Classes or seminars, pursuant to subdivision (3) of this subsection;

(E) At the discretion of the board, through a program of individual counseling which is optional on the part of the member; and

(F) Through any other educational program considered necessary by the board.

(3) The Consolidated Public Retirement Board shall provide the information set forth in subdivision (1) of this subsection through classes or seminars in accordance with the following:

(A) The Consolidated Public Retirement Board shall provide training for conducting the classes or seminars for employees of county boards, for employees of state institutions of higher education or for any other person that the county board or the institution of higher learning determines, with the approval of the Consolidated Public Retirement Board, would be appropriate to conduct the classes or seminars;

(B) Each county board shall require at least two representatives to attend the training. The representatives must be approved by the Consolidated Public Retirement Board prior to attending the board's training class;

(C) Each county board shall ensure that each employee of that county board who is a member of the Teachers' Defined Contribution Retirement System has had an opportunity to attend a class or a seminar on the topics set forth in subdivision (1) of this subsection at his or her work site during his or her workday;

(D) The class or seminar shall be conducted by any person who attended the training or by a representative of a school personnel organization that the Consolidated Public Retirement Board considers qualified to conduct the class or seminar;

(E) The classes or seminars may be conducted at the time allocated for professional activities for teachers on instructional support and enhancement days, before school, after school and at any other time during an employee's work day: Provided, That the classes or seminars may interfere with instructional time only if no other time is available to conduct the classes or seminars;

(F) Each county board shall ensure that informational booths are set up at each work site under the jurisdiction of the county board and that the booths are attended on a rotating basis by an person trained to conduct the classes or seminars or by a representative of a school personnel organization that the Consolidated Public Retirement Board considers qualified to attend the booth;

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(G) During the period provided by this section for the educational program, each county board and its superintendent shall allow representatives of the Consolidated Public Retirement Board entry upon the premises of each school in this state where the Consolidated Public Retirement Board determines appropriate on at least one occasion for the duration of at least sixty minutes during regular school hours to provide educational programs as the Consolidated Public Retirement Board determines appropriate for members of the Teachers' Defined Contribution Retirement System;

(b) The board shall provide each actively contributing member with a copy of the written or electronic educational materials and with a copy of the notice of the opportunity to affirmatively elect to transfer, to the extent deliverable, by mailing a copy thereof, first class postage prepaid, through the United States mails to the most current mailing address provided by the member to the board. The board is not required to deliver, nor is any member entitled to delivery of, these materials by any other means. The notice shall provide full and appropriate disclosure regarding the process by which a member may affirmatively elect to transfer, including the period of the opportunity to affirmatively elect to transfer.

(c) It is the responsibility of each member of the Teachers' Defined Contribution Retirement System to keep the board informed of his or her current address. A member who does not is considered to have waived his or her right to receive any information from the board with respect to the purposes of this article.

(d) Once the board has complied with the provisions of this section, each actively contributing member of the Teachers' Defined Contribution Retirement System is considered to have actual notice of the opportunity to affirmatively elect to transfer and all matters pertinent thereto.

(e) The executive director of the Consolidated Public Retirement Board shall report to the Governor, the President of the Senate, and the Speaker of the House of Delegates no later than April, 1, two thousand eight, a plan for the execution of the education and outreach requirements set forth in this section.

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§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.

(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:

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(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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§18-7D-6. Service credit in State Teachers Retirement System following transfer; conversion of assets; adjustments.

(a) Any member who has affirmatively elected to transfer to the State Teachers Retirement System within the period provided in section seven of this article whose assets have been transferred from the Teachers' Defined Contribution Retirement System to the State Teachers Retirement System pursuant to the provisions of this article and who has not made any withdrawals or cash-outs from his or her assets is, depending upon the percentage of actively contributing members affirmatively electing to transfer, entitled to service credit in the State Teachers Retirement System in accordance with the provisions of subsection (c) of this section.

(b) Any member who has made withdrawals or cash-outs will receive service credit based upon the amounts transferred. The board shall make the appropriate adjustment to the service credit the member will receive.

(c) More than seventy-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System affirmatively elected to transfer to the State Teachers Retirement System within the period provided in section seven of this article. Therefore, any member of the Teachers' Defined Contribution Retirement System who decides to transfer to the State Teachers Retirement System calculates his or her service credit in the State Teachers Retirement System as follows:

(1) For any member affirmatively electing to transfer, the member's State Teachers Retirement System credit shall be seventy-five percent of the member's Teachers' Defined Contribution Retirement System service credit, less any service previously withdrawn by the member or due to a qualified domestic relations order and not repaid;

(2) To receive full credit in the State Teachers Retirement System for service in the Teachers' Defined Contribution Retirement System for which assets are transferred, members who affirmatively elected to transfer and who provided to the board a signed verification of cost for service credit purchase form by the effective date of the amendments to this section enacted in the 2009 regular legislative session shall pay into the State Teachers Retirement System a one and one-half percent contribution by no later than July 1, 2015, or no later than ninety days after the postmarked date on a final and definitive contribution calculation from the board, whichever is later. This contribution shall be calculated as one and one-half percent of the member's estimated total earnings for which assets are transferred, plus interest of four percent per annum accumulated from the date of the member's initial participation in the Teachers' Defined Contribution Retirement System through June 30, 2009, and interest of seven and one-half percent per annum accumulated from July 1, 2009, through July 1, 2015: Provided, That any member who transferred and provided to the board a signed verification of cost for service credit purchase form by June 30, 2009, but was unable to complete the purchase of the one and one-half percent contribution, or any member who did not request a verification of cost letter but attempted to purchase the one and one-half percent contribution and was denied in writing by the

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board on or before December 31, 2009, may request the board on or before April 15, 2015, to recalculate the contribution for 2015. To receive full credit, the member shall pay into the State Teachers Retirement System the recalculated purchase amount by July 1, 2015, or no later than sixty days after the postmarked date on a contribution recalculation from the board, whichever is later. The recalculated contribution shall include the interest loss at the actuarial rate of seven and one-half percent. The board's executive director may correct clerical errors.

(A) For a member contributing to the Teachers' Defined Contribution Retirement System at any time during the 2008 fiscal year and commencing membership in the State Teachers Retirement System on July 1, 2008, or August 1, 2008, as the case may be:

(i) The estimated total earnings shall be calculated based on the member's salary and the member's age nearest birthday on June 30, 2008;

(ii) This calculation shall apply both an annual backward salary scale from that date for prior years' salaries and a forward salary scale for the salary for the 2008 fiscal year.

(B) The calculations in paragraph (A) of this subdivision are based upon the salary scale assumption applied in the West Virginia Teachers Retirement System actuarial valuation as of July 1, 2007, prepared for the Consolidated Public Retirement Board. This salary scale shall be applied regardless of breaks in service.

(d) All service previously transferred from the State Teachers Retirement System to the Teachers' Defined Contribution Retirement System is considered Teachers' Defined Contribution Retirement System service for the purposes of this article.

(e) Notwithstanding any provision of this code to the contrary, the retirement of a member who becomes eligible to retire after the member's assets are transferred to the State Teachers Retirement System pursuant to the provisions of this article may not commence before September 1, 2008: Provided, That the Consolidated Public Retirement Board may not retire any member who is eligible to retire during the calendar year 2008 unless the member has provided a written notice to his or her county board of education by July 1, 2008, of his or her intent to retire.

(f) The provisions of section twenty-eight-e, article seven-a of this chapter do not apply to the amendments to this section enacted during the 2009 regular legislative session or the 2015 regular legislative session.

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§18-7D-7. Period for affirmative election to transfer; board may contract for professional services.

(a) The board shall provide the members of the Teachers' Defined Contribution Retirement System an opportunity to voluntarily execute and deliver to the Consolidated Public Retirement Board, or its designee, a written document in a form prescribed by the board that irrevocably authorizes the board to transfer the member and all the member's assets in the Teachers' Defined Contribution Retirement System to the state Teachers Retirement System in accordance with the provisions of this article.

(b) 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:

(1) The Consolidated Public Retirement Board shall, for each member who affirmatively elected to transfer as provided in this section, transfer the assets held in the Teachers' Defined Contribution Retirement System's Trust Fund in trust for that member to the state Teachers Retirement System on July 1, 2008: Provided, That the board shall, for each 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, transfer the assets of such member as provided in this subdivision on August 1, 2008;

(2) On July 1, 2008, or August 1, 2008, as the case may be, each member who so elected becomes a member of the state Teachers Retirement System and after working one or more hours and contributing to the state Teachers Retirement System is entitled to the benefits of the state Teachers Retirement System; and

(3) Each such member is governed by the provisions of the state Teachers Retirement System subject to the provisions of this article.

(c) If fewer than sixty-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System affirmatively elect to transfer to the state Teachers Retirement System, the transfers described in this section shall not occur.

(d) Any person who has $1 or more in assets in the Teachers' Defined Contribution Retirement System on December 31, 2007, may and is eligible to affirmatively elect to transfer to the state Teachers Retirement System as provided in this section. For purposes of this article:

(1) The tabulation of the percentage required for transfer as required in this article shall only include documents affirmatively electing to transfer submitted under the provisions of this subsection by those who are actively contributing members of the Teachers' Defined Contribution Retirement System as that term is defined in section two of this article; and

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(2) Notwithstanding the opportunity to submit documents affirmatively electing to transfer extended by this article to members other than those who are actively contributing members of the Teachers' Defined Contribution Retirement System, there shall be no duty or other obligation on the part of the board to provide any education, information or notice regarding matters contained in this article to members who are not actively contributing members of the Teachers' Defined Contribution Retirement System regarding any matter described in this article, nor any right on the part of those other members to receive the same.

(e) Notwithstanding any other provision of this code to the contrary, the board may do all things necessary and convenient to maintain the Teachers' Defined Contribution Retirement System and the state Teachers Retirement System during the transitional period and may retain the services of the professionals it considers necessary to do so. The board may also retain the services of professionals necessary to:

(1) Assist in the preparation of educational materials;

(2) Assist in the educational process;

(3) Assist in the process for submission of the documents whereby members may affirmatively elect to transfer; and

(4) Ensure compliance with all relevant state and federal laws.

(f) Due to the time constraints inherent in the initial processes established for the submission of documents affirmatively electing to transfer set forth in this article in specific, and due to the nature of the professional services required by the Consolidated Public Retirement Board in general, the provisions of article three, chapter five-a of this code, do not apply to any materials, contracts for any actuarial services, investment services, legal services or other professional services authorized under the provisions of this article and the provisions of article six, chapter twenty-nine do not apply to any employment of or contracting for personnel by the board for the purposes of implementing the provisions of this article.

(g) The submission of the documents whereby members may affirmatively elect to transfer may be held through any method the board determines is in the best interest of the members: Provided, That for members of the Teachers' Defined Contribution Retirement System, the submission of the documents whereby those members elect to transfer shall be pursuant to the procedure established by the Consolidated Public Retirement Board set forth in subsection (j) of this section.

(h) The period for submission of the documents whereby members may affirmatively elect to transfer shall begin not later than April 1, 2008. The board shall ascertain the results of the submissions not later than May 31, 2008. The board shall certify the results of the submissions to the Governor, the Legislature and the members not later than June 5, 2008.

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(i) The submission period terminates and elections to transfer may not be accepted from a member after May 12, 2008, subject to the following:

(1) If elections to transfer are permitted through the mail, any submission postmarked later than May 12, 2008, is void and may not be counted: Provided, That notwithstanding the provisions of this subdivision, any submission received by the board on or before May 20, 2008 shall be counted;

(2) If elections to transfer are delivered to a supervisor on selection day or on or before May 9, 2008, any submission postmarked or deposited with a commercial carrier later than May 13, 2008, is void and may not be counted: Provided, That notwithstanding the provisions of this subdivision, any submission received by the board on or before May 20, 2008 shall be counted: Provided, however, That delivery by mail must be by certified mail, return receipt requested or delivery by commercial courier that requires written confirmation by the board of delivery;

(3) May 5, 2008, is selection day upon which each county board and superintendent shall provide an opportunity in each school within the county for members of the Teachers' Defined Contribution System to affirmatively elect to transfer.

(j) The Consolidated Public Retirement Board shall collaborate with the state superintendent, the Chancellor for Higher Education and the Chancellor for Community and Technical College Education to establish a procedure whereby all actively contributing members of the Teachers' Defined Contribution Retirement System may deliver to the Consolidated Public Retirement Board or its designee the written document authorizing transfer through a supervisor at each work site where any contributing member of the Defined Contribution Retirement System is employed. The procedure shall include at least the following:

(1) The supervisor at each work site is responsible for collecting the written documents authorizing the transfer from all actively contributing members of the Teachers' Defined Contribution Retirement System employed at the work site who choose to submit the written document. The supervisor shall record the receipt of all written documents authorizing transfer, shall direct the member submitting the written document to initial a receipt log and shall issue a receipt to the member submitting the written document.

(2) On and after May 6, 2008, but on or before May 9, 2008, the supervisor at the work site shall make reasonable efforts to contact verbally and in writing all actively contributing members of the Teachers' Defined Contribution Retirement System employed at the work site that have not submitted their written documents as of that date to remind those members of the upcoming deadline for submitting their written document authorizing transfer: Provided, That failure of the supervisor to make contact with any of those members shall not be a basis for a cause of action to allow a member to transfer after the period provided in this section or for any other cause of action.

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(3) The supervisor at each work site shall forward all of the written documents to the Consolidated Public Retirement Board, or its designee, through certified mail, or delivery by commercial courier that requires written confirmation by the board of delivery, no later than May 13, 2008: Provided, That notwithstanding the provisions of this subdivision, any submission received by the board on or before May 20, 2008, shall be counted. The work site supervisor shall inform the Consolidated Public Retirement Board of all of the written documents received each day so that the board, or its designee, can record which members of the Teachers' Defined Contribution Retirement System have submitted their written documents authorizing transfer pursuant to subsection (k) of this section.

(4) For the purposes of this subdivision, the principal of a school with any of grades prekindergarten through twelve is the work site supervisor. For the purposes of this subdivision, for any work site under the jurisdiction of the Higher Education Policy Commission or the West Virginia Council for Community and Technical College Education, the human resource administrator or other designee may be considered the work site supervisor. In any case where the person who is the work site supervisor is in question, the state board, the Chancellor for Higher Education or the Chancellor for Community and Technical College Education, whichever entity has jurisdiction over the work site, shall designate the supervisor.

(5) The state board, the Chancellor for Higher Education and the Chancellor for Community and Technical College Education shall ascertain the names of all work site supervisors under their jurisdiction and transmit a list of the names of the work site supervisors to the Consolidated Public Retirement Board on or before March 31, 2008.

(k) The Consolidated Public Retirement Board, or its designee, shall record the receipt of all written documents authorizing the transfer so that it knows the percentage of contributing members of the Teachers' Defined Contribution Retirement System that have submitted the written documents by work site and by county.

(l) Notwithstanding any other provision of this article to the contrary, any member of the Teachers Defined Contribution Retirement System who was erroneously identified by the employer as being a member of the Teachers Retirement System and who did not have at least $1 in the Teachers Defined Contribution Retirement System on December 31, 2007, and therefore was denied an opportunity to select transfer as determined by the Consolidated Public Retirement Board, shall be provided promptly with an opportunity to select membership in the Teachers Retirement System. The Consolidated Public Retirement Board is authorized to establish procedures and time periods to provide notice, education, selection opportunity and transfer for these members to correct the erroneous assignment to the Teachers Retirement System.

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§18-7D-8. Results considered final.

Every member of the Teachers' Defined Contribution Retirement System is considered to have made an informed, educated, knowing and voluntary decision and choice with respect to the opportunities provided by this article to transfer membership and assets to the state Teachers Retirement System. Each member who failed or refused to affirmatively elect to transfer is also considered to have made an informed, educated, knowing and voluntary decision and choice with respect thereto and is bound by the results thereof, except as may be required by federal law.

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§18-7D-9. Qualified domestic relations orders.

Any transferring member having a qualified domestic relations order against his or her defined contribution account is allowed to repurchase service in the state Teachers Retirement System. The member shall repay any moneys previously distributed to the alternate payee along with the interest as set by the board. To receive full credit for the previous distribution to the alternate payee pursuant to a qualified domestic relations order being repaid to the state Teachers Retirement System, the member shall also pay the Actuarial Reserve, or the one and one-half percent contribution, as the case may be, pursuant to section six of this article. The member shall repay by June 30, 2014. The provisions of this section are void and of no effect if there is no transfer from the Teachers' Defined Contribution Retirement System to the state Teachers Retirement System. An alternate payee is not, solely as a result of that status, a member of either the Teachers' Defined Contribution Retirement System or the state Teachers Retirement System for any purpose under the provisions of this article and no interest held by the alternate payee is transferred to the state Teachers Retirement System pursuant thereto.

WV Legislature

§18-7D-10. Vesting.

Any member who works one hour or more after his or her assets are transferred to the state Teachers Retirement System pursuant to this article is subject to the vesting schedule set forth in article seven-a of this chapter: Provided, That if a member is vested under the Teachers' Defined Contribution Retirement System and his or her last contribution was not made to the state Teachers Retirement System, that member is subject to the vesting schedule set forth in article seven-b of this chapter.

WV Legislature

§18-7D-11. Minimum guarantees.

(a) Any member of the Teachers' Defined Contribution Retirement System who works one hour or more and who has made a contribution to the state Teachers Retirement System after his or her assets are transferred to the state Teachers Retirement System pursuant to this article, is guaranteed a minimum benefit equal to his or her member contributions plus the vested portion of employer contributions made on his or her behalf to the Teachers' Defined Contribution Retirement System, plus any earnings thereon, as of June 30, 2008, as stated by the board.

(b) A member of the Teachers' Defined Contribution Retirement System who works one hour or more and who has made contributions to the state Teachers Retirement System after his or her assets are transferred to the state Teachers Retirement System, upon eligibility to receive a distribution under article seven-a of this chapter, shall have at a minimum the following two options:

(1) The right to receive an annuity from the state Teachers Retirement System based upon the provisions of article seven-a of this chapter; or

(2) The right to withdraw from the state Teachers Retirement System and receive his or her member accumulated contributions in the state Teachers Retirement System, plus refund interest thereon, as set forth in article seven-a of this chapter and the right to withdraw and receive his or her member contributions plus the vested portion of employer contributions made on his or her behalf to the Teachers' Defined Contribution Retirement System, plus any earnings thereon as of the date his or her assets are transferred to the state Teachers Retirement System pursuant to this article, as determined by the board pursuant to the vesting provisions of article seven-a of this chapter. This amount shall be distributed in a lump sum.

(c) Any member of the Teachers' Defined Contribution Retirement System who does not work one hour or more and who makes no contribution to the state Teachers Retirement System after his or her assets are transferred to the state Teachers Retirement System pursuant to this article, is guaranteed the receipt of the amount in his or her total vested account in the Teachers' Defined Contribution Retirement System on the date of the transfer, plus interest thereon, at four percent accruing from the date of the transfer. This amount shall be distributed in a lump sum: Provided, That no benefits may be obtained under this subsection solely by the reciprocity provisions of sections three, four and six, article thirteen, chapter five of this code.

WV Legislature

§18-7D-12. Transferees' eligibility to retire.

(a) For purposes of determining a transferring member's eligibility for retirement in accordance with section twenty-five, article seven-a of this chapter, any member who has affirmatively elected to transfer to the state Teachers Retirement System pursuant to the provisions of this article shall be fully credited for his or her years of service in the Teachers' Defined Contribution Retirement System: Provided, That the calculation of any transferring member's service credit in the state Teachers' Retirement System following the transfer shall be determined in accordance with the provisions of section six of this article.

(b) For purposes of this section, "years of service" shall mean all years as a member of the Teachers' Defined Contribution Retirement System and, in addition thereto, credits for any prior service, if any: Provided, That service previously withdrawn by a member may not be included in "years of service" unless repaid.

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