WEST VIRGINIA CODE: §5-10-14

§5-10-14. Service credit; retroactive provisions.

(a) The board of trustees shall credit each member with the prior service and contributing service to which he or she is entitled based upon rules adopted by the board of trustees and based upon the following:

(1) In no event may less than 10 days of service rendered by a member in any calendar month be credited as a month of service: *Provided*, That for employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who have been or are employed during regular sessions or during the interim between regular sessions in seven consecutive calendar years, service credit of one month shall be awarded for each 10 days employed in the interim between regular sessions, which interim days shall be cumulatively calculated so that any 10 days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit;

(2) Except for hourly employees, and those persons who first become members of the retirement system on or after July 1, 2015, 10 or more months of service credit earned in any calendar year shall be credited as a year of service: *Provided*, That no more than one year of service may be credited to any member for all service rendered by him or her in any calendar year and no days may be carried over by a member from one calendar year to another calendar year where the member has received a full-year credit for that year; and

(3) Service may be credited to a member who was employed by a political subdivision if his or her employment occurred within a period of 30 years immediately preceding the date the political subdivision became a participating public employer.

(b) The board of trustees shall grant service credit to any former and present member of the State Teachers Retirement System who has been a contributing member in the Public Employees Retirement System for more than three years, for service previously credited by the State Teachers Retirement System and shall require the transfer of the member's accumulated contributions to the system and shall also require a deposit, with reinstatement interest as set forth in the board's Rule, Refund, Reinstatement, Retroactive Service, Loan and Correction of Error Interest Factors, 162 C. S. R. 7, of any withdrawals of contributions any time prior to the member's retirement: *Provided*, That members of the State Teachers Retirement System who first became a member of the State Teachers Retirement System on or after July 1, 2022, may only transfer service credit to the Public Employees Retirement System if they first became a member of the Public Employees Retirement System on or after July 1, 2015. Repayment of withdrawals shall be as directed by the Board of Trustees.

(c) Court reporters who are acting in an official capacity, although paid by funds other than

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the county commission or State Auditor, may receive prior service credit for time served in that capacity.

(d) Active members who previously worked in Comprehensive Employment and Training Act (CETA) may receive service credit for time served in that capacity: *Provided*, That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within 120 days following the termination of the member's CETA employment; (2) the board must receive evidence that establishes to a reasonable degree of certainty as determined by the board that the member previously worked in CETA; and (3) the member shall pay to the board an amount equal to the employer and employee contribution plus interest at the amount set by the board for the amount of service credit sought pursuant to this subsection: *Provided, however*, That the maximum service credit that may be obtained under the provisions of this subsection is two years: *Provided further*, That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: *And provided further*, That the board shall exercise due diligence to notify affected employees of the provisions of this subsection.

(e) (1) Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions shall receive service credit for the time served in that capacity in accordance with the following: For purposes of this section, the term "regular session" means day one through day 60 of a 60-day legislative session or day one through day 30 of a 30-day legislative session. Employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions and who have been or are employed during regular sessions or during the interim time between regular sessions in seven consecutive calendar years, as certified by the clerk of the house in which the employee served, shall receive service credit of six months for all regular sessions served, as certified by the clerk of the house in which the employee served, or shall receive service credit of three months for each regular 30-day session served prior to 1971: *Provided*, That employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions and who have been or are employed during the regular sessions in 13 consecutive calendar years as either temporary employees or full-time employees or a combination thereof, as certified by the clerk of the house in which the employee served, shall receive a service credit of 12 months for each regular session served, as certified by the clerk of the house in which the employee served: *Provided, however*, That the amendments made to this subsection during the 2002 regular session of the Legislature only apply to employees of the Legislature who are employed by the Legislature as either temporary employees or full-time employees as of January 1, 2002, or who become employed by the Legislature as temporary or full-time employees for the first time after January 1,

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2002. Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature during the interim time between regular sessions shall receive service credit of one month for each 10 days served during the interim between regular sessions, which interim days shall be cumulatively calculated so that any 10 days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit: *Provided further*, That no more than one year of service may be credited to any temporary legislative employee for all service rendered by that employee in any calendar year and no days may be carried over by a temporary legislative employee from one calendar year to another calendar year where the member has received a full year credit for that year. Service credit awarded for legislative employment pursuant to this section shall be used for the purpose of calculating that member's retirement annuity, pursuant to §5-10-22 of this code, and determining eligibility as it relates to credited service, notwithstanding any other provision of this section. Certification of employment for a complete legislative session and for interim days shall be determined by the clerk of the house in which the employee served, based upon employment records. Service of 55 days of a regular session constitutes an absolute presumption of service for a complete legislative session and service of 27 days of a 30-day regular session occurring prior to 1971 constitutes an absolute presumption of service for a complete legislative session. Once a legislative employee has been employed during regular sessions for seven consecutive years or has become a full-time employee of the Legislature, that employee shall receive the service credit provided in this section for all regular and interim sessions and interim days worked by that employee, as certified by the clerk of the house in which the employee served, regardless of when the session or interim legislative employment occurred: *And provided further*, That regular session legislative employment for seven consecutive years may be served in either or both houses of the Legislature.

(2) For purposes of this section, employees of the Joint Committee on Government and Finance are entitled to the same benefits as employees of the House of Delegates or the Senate: *Provided*, That for joint committee employees whose terms of employment are otherwise classified as temporary, employment in preparation for regular sessions, certified by the legislative manager as required by the Legislature for its regular sessions, shall be considered the same as employment during regular sessions to meet service credit requirements for sessions served.

(f) Any employee may purchase retroactive service credit for periods of employment in which contributions were not deducted from the employee's pay. In the purchase of service credit for employment prior to 1989 in any department, including the Legislature, which operated from the General Revenue Fund and which was not expressly excluded from budget appropriations in which blanket appropriations were made for the state's share of public employees' retirement coverage in the years prior to 1989, the employee shall pay the employee's share. Other employees shall pay the state's share and the employee's share to purchase retroactive service credit. Where an employee purchases service credit for employment which occurred after 1988, that employee shall pay for the employee's share and the employer shall pay its share for the purchase of retroactive service credit: *Provided*,

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That no legislative employee and no current or former member of the Legislature may be required to pay any interest or penalty upon the purchase of retroactive service credit in accordance with the provisions of this section where the employee was not eligible to become a member during the years for which he or she is purchasing retroactive credit or had the employee attempted to contribute to the system during the years for which he or she is purchasing retroactive service credit and the contributions would have been refused by the board: *Provided, however*, That a current legislative employee purchasing retroactive credit under this section shall do so within 24 months of beginning contributions to the retirement system as a legislative employee or no later than December 31, 2016, whichever occurs later: *Provided further*, That once a legislative employee becomes a member of the retirement system, he or she may purchase retroactive service credit for any time he or she was employed by the Legislature and did not receive service credit. Any service credit purchased shall be credited as six months for each 60-day session worked, three months for each 30-day session worked or 12 months for each 60-day session for legislative employees who have been employed during regular sessions in 13 consecutive calendar years, as certified by the clerk of the house in which the employee served, and credit for interim employment as provided in this subsection: *And provided further*, That this legislative service credit shall also be used for months of service in order to meet the 60-month requirement for the payments of a temporary legislative employee member's retirement annuity: *And provided further*, That no legislative employee may be required to pay for any service credit beyond the actual time he or she worked regardless of the service credit which is credited to him or her pursuant to this section: *And provided further*, That any legislative employee may request a recalculation of his or her credited service to comply with the provisions of this section at any time.

(g) (1) Notwithstanding any provision to the contrary, the seven consecutive calendar years requirement and the 13 consecutive calendar years requirement and the service credit requirements set forth in this section shall be applied retroactively to all periods of legislative employment prior to the passage of this section, including any periods of legislative employment occurring before the seven consecutive and 13 consecutive calendar years referenced in this section: *Provided*, That the employee has not retired prior to the effective date of the amendments made to this section in the 2002 regular session of the Legislature.

(2) The requirement of seven consecutive years and the requirement of 13 consecutive years apply retroactively to all legislative employment prior to the effective date of the 2006 amendments to this section.

(h) The board of trustees shall grant service credit to any former or present member of the State Police Death, Disability and Retirement Fund who has been a contributing member of this system for more than three years for service previously credited by the State Police Death, Disability and Retirement Fund if the member transfers all of his or her contributions to the State Police Death, Disability and Retirement Fund to the system created in this article, including repayment of any amounts withdrawn any time from the State Police Death, Disability and Retirement Fund by the member seeking the transfer allowed in this

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subsection: *Provided*, That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Public Employees Retirement System during the period of his or her membership in the State Police Death, Disability and Retirement Fund, excluding contributions on lump sum payment for annual leave, plus interest at a rate determined by the board.

(i) The provisions of §5-10-22h of this code are not applicable to the amendments made to this section during the 2006 regular session.

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