WEST VIRGINIA CODE: §5-10-15C

§5-10-15c. 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 Public Employees 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 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 employee substantiates by appropriate documentation or evidence his or her service in the West Virginia National Guard;

(B) The employee has completed at least twelve consecutive months of contributory service to the retirement system on or after January 2015; and

(C) The employee pays to the retirement system the actuarial reserve purchase amount within forty-eight months after January 1, 2015, if he or she was employed with a participating public employer during all twelve months of the calendar year 2015 or the first date on which employer and employee contributions are received by the retirement system for the employee after January 2015 if he or she was not employed with a participating public employer during all twelve months of calendar year 2015 and while he or she continues to be in the employ of a participating public employer and contributing to the retirement system: Provided, That any employee who ceases employment with a participating public employer before completing the required actuarial reserve purchase amount in full shall not be 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 of the State of West Virginia as verified by the Adjutant General’s office. All documentation will be submitted to the retirement board by the employee.

(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 fifteen, article ten, chapter five of this code; or any other retirement system administered by the board.

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

(6) To receive credit, an employee must submit a request to purchase military service credit to the board, on such form or in such other manner as shall be required by the board, within the twelve consecutive month period required by this subsection or by December 31, 2016, whichever occurs later. The 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 employee purchasing military service credit pursuant to this subsection must do so in a single, lump sum payment: Provided, That the board may accept partial, installment 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 forty-four of this article and no military service shall be credited.

(7) To calculate the amount of military service credit an employee may purchase, the 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 and greater shall be rounded up), in order to yield the total number of months of military service credit an employee may purchase, subject to the sixty-month maximum. An employee 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) Employees of participating public employers 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) or employees 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) up to the sixty-month maximum in every even calendar year following, if the following conditions are met:

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

(B) The employee has completed at least twelve consecutive months of contributory service

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to the retirement system in the prior odd year; and

(C) The employee pays to the retirement system the actuarial reserve purchase amount within three months from the date of the cost letter provided by the board and while he or she continues to be in the employ of a participating public employer and contributing to the retirement system: Provided, That any employee who ceases employment with a participating public employer before completing the required actuarial reserve purchase amount in full shall not be 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 National Guard Current Annual Statement, Point Credit or other equivalent document, along with any documentation of any periods of active service of the State of West Virginia as verified by the Adjutant General's office. All documentation will be submitted to the retirement board by the employee.

(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 fifteen, article ten, chapter five of this code, or any other retirement system administered by the 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 board shall have final power to determine the period.

(5) To receive credit, an employee must submit a request to purchase military service credit to the board, on such form or in such other manner as shall be required by the board, within the first five months of each even calendar year following the years computed under subsection (a) of this section. The board shall then calculate the actuarial reserve lump sum purchase amount, which amount must be paid by the employee within three months from the date of the cost letter provided by the board. An employee 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 employee may purchase, the 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 and greater shall be rounded up), in order to yield the total number of months of military service credit an employee may purchase, subject to the sixty-month maximum. An employee 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,

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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 such 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 the first twelve consecutive months of contributory service with a participating public employer on or after January 2015 for computations under subsection (a) of this section, or the month immediately following the month in which the employee completes twelve consecutive months of contributory service with a participating public 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

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(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 employee during months two through twelve of the twelve consecutive month period required by the appropriate subsection.

(8) "Purchase military service" means the amount of military service being purchased by the employee 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 employee 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 board is authorized to determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the board in section one, article ten-d of this chapter, 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.

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