WEST VIRGINIA CODE: §5-10-17

§5-10-17. Retirement system membership.

The membership of the retirement system consists of the following persons:

(a) All employees, as defined in §5-10-2 of this code, who are in the employ of a political subdivision the day preceding the date it becomes a participating public employer and who continue in the employ of the participating public employer on and after that date shall become members of the retirement system; and all persons who become employees of a participating public employer on or after that date shall thereupon become members of the system; except as provided in subdivisions (b), (c) and (d) of this section.

(b) The membership of the Public Employees Retirement System may not include any person who is an active contributing member of, or who has been retired by, any of the state teachers retirement systems, the Judges Retirement System, any retirement system of the West Virginia State Police, the Deputy Sheriff Retirement System, the Natural Resources Police Officer Retirement System or any municipal retirement system for either, or both, police or firefighter; and the Bureau of Employment Programs, by the Commissioner of the Bureau, may elect whether its employees will accept coverage under this article or be covered under the authorization of a separate enactment: *Provided,* That the exclusions of membership do not apply to any member of the State Legislature, the Clerk of the House of Delegates, the Clerk of the State Senate or to any member of the legislative body of any political subdivision provided he or she once becomes a contributing member of the retirement system: *Provided, however,* That any retired member of the State Police Death, Disability and Retirement Fund, the West Virginia State Police Retirement System, the Deputy Sheriff Retirement System, the Natural Resources Police Officer Retirement System and any retired member of any municipal retirement system for either, or both, police or firefighter may on and after the effective date of this section become a member of the retirement system as provided in this article, without receiving credit for prior service as a municipal police officer or firefighter or as a member of the State Police Death, Disability and Retirement Fund, the West Virginia State Police Retirement System, the Deputy Sheriff Retirement System, or the Natural Resources Police Officer Retirement System: *Provided further,* That any retired member of the State Police Death, Disability and Retirement Fund, the West Virginia State Police Retirement System, the Deputy Sheriff Retirement System, the Natural Resources Police Officer Retirement System and any retired member of any municipal retirement system for either, or both, police or firefighters, who begins participation in the retirement system established in this article on or after July 1, 2005, may not receive a combined retirement benefit in excess of 105 percent of the member's highest annual salary earned while either a member of the retirement system established in this article or while a member of the other retirement system or systems from which he or she previously retired when adding the retirement benefit from the retirement system created in this article to the retirement benefit received by that member from the other retirement

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system or systems set forth herein from which he or she previously retired: *And provided further,* That the membership of the retirement system does not include any person who becomes employed by the Prestera Center for Mental Health Services, Valley Comprehensive Mental Health Center, Westbrook Health Services or Eastern Panhandle Mental Health Center on or after July 1,1997: *And provided further,* That membership of the retirement system does not include any person who becomes a member of the federal Railroad Retirement Act on or after July 1, 2000.

(c) Any member of the State Legislature, the Clerk of the House of Delegates, the Clerk of the State Senate, and any employee of the State Legislature whose employment is otherwise classified as temporary and who is employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who has been or is employed during regular sessions or during the interim between sessions in seven consecutive calendar years, as certified by the Clerk of the House in which the employee served, or any member of the legislative body of any other political subdivision shall become a member of the retirement system provided he or she notifies the retirement system in writing of his or her intention to be a member of the system and files a membership enrollment form as prescribed by the Board of Trustees, and each person, upon filing his or her written notice to participate in the retirement system, shall by that act authorize the Clerk of the House of Delegates or the Clerk of the State Senate or such person or legislative agency as the legislative body of any other political subdivision shall designate to deduct the member's contribution, as provided in §5-10-29(b) of this code, and after the deductions have been made from the member's compensation, the deductions shall be forwarded to the retirement system.

(d) Any employee, as defined in §5-10-2 of this code, who has concurrent employment in an additional job or jobs which would require the employee to be a member of the West Virginia Deputy Sheriff Retirement System, the West Virginia Municipal Police Officers and Firefighters Retirement System, the Natural Resources Police Officer Retirement System or the West Virginia Emergency Medical Services Retirement System shall abide by the concurrent employment statutory provisions of said retirement system and shall participate in only one retirement system administered by the board.

(e) If question arises regarding the membership status of any employee, the Board of Trustees has the final power to decide the question.

(f) Any individual who is a leased employee is not eligible to participate in the system. For the purposes of this article, the term "leased employee" means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or other similar organization. If a question arises regarding the status of an individual as a leased employee, the board has final authority to decide the question.

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