

HB # 4205

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Com. Sub. For
HOUSE BILL No. 4205

(By Delegates *Smith, Campbell, Beausjour,*
Lindsey, Ashley, Prezioso and Wallace)



Passed *March 12* 1994

In Effect *90 Day From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 4205

(By DELEGATES SMITH, CAMPBELL, BROWNING,
LINDSEY, ASHLEY, PREZIOSO AND WALLACE)

[Passed March 12, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-five, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article ten-d of said chapter by adding thereto a new section, designated section five, relating to retirement systems administered by the consolidated public retirement board; limiting eligibility for disability retirement by former members of the public employees retirement system to those who were employed by participating public employers within the last twelve months unless other specifications are met; and prohibiting payment of disability retirement benefits to a member of any state-administered retirement system due to disability resulting from a pre-existing condition.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article ten-d of said chapter be amended by adding thereto a new section, designated section five, all to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-25. Disability retirement.

1 (a) Upon the application of a member or former
2 member of the retirement system, or his or her present
3 or past employing authority, any member or former
4 member who is in the employ of a participating public
5 employer or was in the employ of a participating public
6 employer on a date which is twelve months or less from
7 the date upon which the former member became
8 incapacitated, who has ten or more years of credited
9 service of which three years is contributing service, and
10 who becomes totally and permanently incapacitated for
11 employment, by reason of a personal injury or disease,
12 may be retired by the board if after a medical exam-
13 ination of the said member or former member made by
14 or under the direction of a medical committee consisting
15 of two physicians, one of whom shall be named by the
16 board, and one by the said member or former member,
17 the said medical committee reports, in writing, to the
18 board that the said member or former member is
19 physically or mentally totally incapacitated for employ-
20 ment, that such incapacity will probably be permanent,
21 and that the said member or former member should be
22 retired. In the event the two above-mentioned examin-
23 ing physicians do not agree in their findings, then the
24 board may, at its discretion, appoint a third physician
25 to examine said member or former member and, based
26 upon the third physician's report in writing, the board
27 may retire said member or former member. A former
28 member who has not been employed by a participating
29 public employer may receive disability retirement
30 under the provisions of this subsection if, in the opinion
31 of the medical committee, the incapacity occurred
32 during the time that the former member was employed
33 by a participating public employer and the incapacity
34 otherwise qualifies the former member for retirement
35 under this subsection.

36 (b) A member with less than ten years of credited
37 service shall have the service requirement provided for
38 in subsection (a) above (including the requirement of
39 three years contributing service) waived in the event (1)
40 the board finds his or her total and permanent disability

41 to be the natural and proximate result of a personal
42 injury or disease arising out of and in the course of his
43 or her actual performance of duty in the employ of a
44 participating public employer, and (2) he or she is
45 receiving or has received workers' compensation bene-
46 fits on account of such physical or mental disability.

47 (c) For any member or former member retiring and
48 any member retired, as of March one, one thousand nine
49 hundred seventy, he or she shall receive a straight life
50 annuity computed according to section twenty-two
51 hereof and he or she shall have the right to elect an
52 option provided for in section twenty-four hereof:
53 *Provided*, That his or her straight life annuity payable
54 to his or her attainment of age sixty-five years may not
55 be less than fifty percent of his or her final average
56 salary; and his or her said straight life annuity payable
57 from and after his or her attainment of age sixty-five
58 years may not be less than twenty percent of his or her
59 final average salary: *Provided, however*, That his or her
60 said annuity shall be subject to section twenty-six
61 hereof.

ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.

§5-10D-5. Award of disability retirement.

1 The board may not award disability retirement to a
2 member of any retirement plan that it administers, if
3 the member is seeking to retire based on a disability
4 that existed at the time the member joined the public
5 retirement plan.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



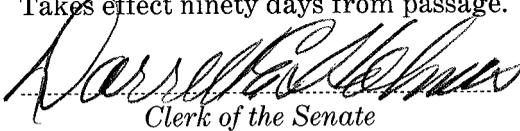
Chairman Senate Committee



Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.



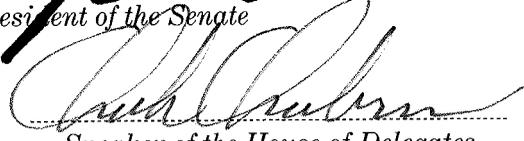
Clerk of the Senate



Clerk of the House of Delegates

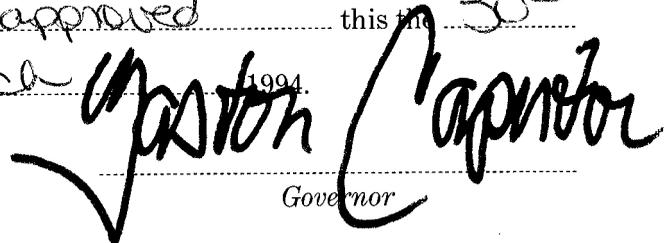


President of the Senate



Speaker of the House of Delegates

The within unapproved this the 30th day of March 1994.



Governor

PRESENTED TO THE

GOVERNOR

Date

3/28/94

Time

4:12 pm