WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED
Com. Sub. For
HOUSE BILL No. 4212

(By Delegates Browning, Ashcraft, Frizioso,
Campbell, Compton, Staton and Campbell)

Passed March 11, 1994

In Effect From Passage
AN ACT to amend and reenact sections seventeen and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section seven, article seven-b of said chapter, all relating to computation of retirement service for a participant who served as an officer in a statewide professional teaching association and eligibility of such a person for readmission to the existing teacher retirement system; and the date of payment of monthly annuities.

Be it enacted by the Legislature of West Virginia:

That sections seventeen and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section seven, article seven-b of said chapter be amended and reenacted, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-17. Statement and computation of teachers' service.

1. Under such rules and regulations as the retirement board may adopt, each teacher shall file a detailed
statement of his length of service as a teacher for which he claims credit. The retirement board shall determine what part of a year is the equivalent of a year of service. In computing such service, however, it shall credit no period of more than a month's duration during which a member was absent without pay, nor shall it credit for more than one year of service performed in any calendar year.

For the purpose of this article, the retirement board shall grant prior service credit to new entrants and other members of the retirement system for service in any of the armed forces of the United States in any period of national emergency within which a Federal Selective Service Act was in effect. For purposes of this section, "armed forces" shall include Women's Army Corps, Women's Appointed Volunteers for Emergency Service, Army Nurse Corps, Spars, Women's Reserve and other similar units officially parts of the military service of the United States. Such military service shall be deemed equivalent to public school teaching, and the salary equivalent for each year of such service shall be the actual salary of the member as a teacher for his first year of teaching after discharge from military service. Prior service credit for military service shall not exceed ten years for any one member, nor shall it exceed twenty-five percent of total service at the time of retirement.

For service as a teacher in the employment of the federal government, or a state or territory of the United States, or a governmental subdivision of such state or territory, the retirement board shall grant credit to the member: Provided, That the member shall pay to the system double the amount he contributed during the first full year of current employment, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. Such interest shall be deposited in the reserve fund and service credit so granted at the time of retirement shall not exceed the lesser of ten years or fifty percent of the member's total service as a teacher in West Virginia. Any transfer of out-of-state service, as provided in this
article, shall not be used to establish eligibility for a retirement allowance and the retirement board shall grant credit for such transferred service as additional service only: Provided, however, That a transfer of out-of-state service shall be prohibited if such service is used to obtain a retirement benefit from another retirement system: Provided further, That salaries paid to members for service prior to entrance into the retirement system shall not be used to compute the average final salary of such member under the retirement system.

Service credit for members or retired members shall not be denied on the basis of minimum income regulations promulgated by the teachers retirement board: Provided, That the member or retired member shall pay to the system the amount he would have contributed during the year or years of public school service for which credit was denied as a result of such minimum income regulations of the teachers retirement board.

No members shall be deemed absent from service while serving as a member or employee of the Legislature of the state of West Virginia during any duly constituted session of that body or while serving as an elected member of a county commission during any duly constituted session of that body: Provided, That the member makes contributions to the system equal to what would have been contributed during the period of absence had he performed his duties.

No member shall be deemed absent from service as a teacher while serving as an officer with a statewide professional teaching association, or who has served in such capacity, and no retired teacher, who served in such capacity while a member, shall be deemed to have been absent from service as a teacher by reason of such service: Provided, That the period of service credit granted for such service shall not exceed six years: Provided, however, That a member or retired teacher who is serving or has served as an officer of a statewide professional teaching association shall make deposits to the teachers retirement board, for the time of any such absence, in an amount double the amount which he would have contributed in his regular assignment for a
The teachers retirement board shall grant service credit to any former or present member of the West Virginia public employees retirement system who has been a contributing member for more than three years, for service previously credited by the public employees retirement system, and (1) shall require the transfer of the member's contributions to the teachers retirement system or (2) shall require a repayment of the amount withdrawn any time prior to the member's retirement: Provided, That there shall be added by the member to the amounts transferred or repaid under this paragraph an amount which shall be sufficient to equal the contributions he would have made had the member been under the teachers retirement system during the period of his membership in the public employees retirement system plus interest at a rate of six percent compounded annually from the date of withdrawal to the date of payment. The interest paid shall be deposited in the reserve fund.

For service as a teacher in an elementary or secondary parochial school, located within this state and fully accredited by the West Virginia department of education, the retirement board shall grant credit to the member: Provided, That the member shall pay to the system double the amount contributed during the first full year of current employment, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. Such interest shall be deposited in the reserve fund and service so granted at the time of retirement shall not exceed the lesser of ten years or fifty percent of the member's total service as a teacher in the West Virginia public school system. Any transfer of parochial school service, as provided in this section, may not be used to establish eligibility for a retirement allowance and the board shall grant credit for such transfer as additional service only: Provided, however, That a transfer of parochial school service is prohibited if such service is used to obtain a retirement benefit from another retirement system.
If a member is not eligible for prior service credit or pension as provided in this article, then his prior service shall not be deemed a part of his total service.

A member who withdrew from membership shall be permitted to regain his former membership rights as specified in section thirteen of this article only in case he has served two years since his last withdrawal.

Subject to the above provisions, the board shall verify as soon as practicable the statements of service submitted. The retirement board shall issue prior service certificates to all persons eligible therefor under the provisions of this article. Such certificates shall state the length of such prior service credit, but in no case shall the prior service credit exceed forty years.


1 Annuitants whose annuities were approved by the retirement board effective before July first, one thousand nine hundred eighty, shall be paid the annuities which were approved by the retirement board.

5 Annuitants approved by the board effective after June thirty, one thousand nine hundred eighty, shall be computed as provided herein.

8 Upon establishment of eligibility for a retirement allowance, a member shall be granted an annuity which shall be the sum of the following:

(a) Two percent of the member's average salary multiplied by his total service credit as a teacher. In this paragraph “average salary” shall mean the average of the highest annual salaries received by the member during any five years contained within his last fifteen years of total service credit: Provided, That the highest annual salary used in this calculation for certain members employed by the West Virginia board of regents at institutions of higher education under its control shall be four thousand eight hundred dollars, as provided by section fourteen-a of this article and chapter;

(b) The actuarial equivalent of the voluntary deposits
of the member in his individual account up to the time
of his retirement, with regular interest.

The disability annuities of all teachers retired for
disability shall be based upon a disability table prepared
by a competent actuary approved by the retirement
board.

Upon the death of an annuitant who qualified for an
annuity as a surviving spouse or because of permanent
disability, the estate of the deceased or beneficiary
designated for such purpose, shall be paid the differ-
ence, if any, between the member's contributions with
regular interest thereon, and the sum of the annuity
payments.

All annuities shall be paid in twelve monthly pay-
ments. In computing the monthly payments, fractions of
a cent shall be deemed a cent. The monthly payments
shall cease with the payment for the month within
which the beneficiary dies, and shall begin with the
payment for the month succeeding the month within
which the annuitant became eligible under this article
for the annuity granted; in no case, however, shall an
annuitant receive more than four monthly payments
which are retroactive after the board receives his
application for annuity. Beginning with the first day of
July, one thousand nine hundred ninety-four, the
monthly payments shall be made on the twenty-fifth day
of each month, except the month of December, when the
payment shall be made on the eighteenth day of
December. If the date of payment falls on a holiday,
Saturday or Sunday, then the payment shall be made
on the preceding workday.

In case the retirement board receives data affecting
the approved annuity of a retired teacher, the annuity
shall be changed in accordance with the data, the
change being effective with the payment for the month
within which the board received the new data.

Any person who has attained the age of sixty-five and
who has served at least twenty-five years as a teacher
prior to July one, one thousand nine hundred forty-one,
shall be eligible for prior service credit and for prior
ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-7. Participation in teachers' defined contribution retirement system; limiting participation in existing teachers retirement system.

1 Beginning the first day of July, one thousand nine hundred ninety-one, the teachers' defined contribution retirement system shall be the single retirement program for all new employees whose employment commences on or after that date. No additional new employees except as may be provided herein may be admitted to the existing retirement system. Members of the existing retirement system whose employment continues beyond the first day of July, one thousand nine hundred ninety-one, are not affected by this article and shall continue to contribute and participate in the existing system without change in provisions or benefits.

Notwithstanding the provisions of section twenty-three, article seven-a of this chapter, any employee whose employment terminates after the thirtieth day of June, one thousand nine hundred ninety-one, who is later reemployed by an employer shall be eligible for membership only in the teachers' defined contribution system: Provided, That if such reemployment with an existing employer occurs not more than six months after the employee's previous employment, he or she shall be entitled to readmission to the existing retirement system in which he or she was originally a member: Provided, however, That if such employee has ten or more years of credited service in the existing retirement system, he or she shall be entitled to readmission into the existing retirement system in which he or she was originally a member, so long as he or she has not withdrawn his or her contributions from the existing retirement system: Provided further, That if such employee has withdrawn his or her contribution from the existing retirement system, then readmission shall not be permitted and the employee will be entitled only to the defined contribution system.
An employee whose employment with an employer was suspended or terminated while he or she served as an officer with a statewide professional teaching association, is eligible for readmission to the existing retirement system in which he or she was a member.

An employee whose employment with an employer or an existing employer is suspended as a result of an approved leave of absence, approved maternity or paternity break in service, or any other approved break in service authorized by the board, is eligible for readmission to the existing retirement system in which he or she was a member.

In all cases where a question exists as to readmission to membership in the existing retirement system, the board shall decide the question.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ........................................ this the .............
day of ........................................, 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/25/94
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