

HB 4212

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Com. Sub. For
HOUSE BILL No. *4212*

(By Delegates *Browning, Ashcraft, Pugiosso,*
D Cook, Compton, Staton and Campbell)



Passed *March 11,* 1994

In Effect *From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4212

(By DELEGATES BROWNING, ASHCRAFT, PREZIOSO, D. COOK,
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
2 board may adopt, each teacher shall file a detailed

3 statement of his length of service as a teacher for which
4 he claims credit. The retirement board shall determine
5 what part of a year is the equivalent of a year of service.
6 In computing such service, however, it shall credit no
7 period of more than a month's duration during which
8 a member was absent without pay, nor shall it credit
9 for more than one year of service performed in any
10 calendar year.

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

30 For service as a teacher in the employment of the
31 federal government, or a state or territory of the United
32 States, or a governmental subdivision of such state or
33 territory, the retirement board shall grant credit to the
34 member: *Provided*, That the member shall pay to the
35 system double the amount he contributed during the
36 first full year of current employment, times the number
37 of years for which credit is granted, plus interest at a
38 rate to be determined by the retirement board. Such
39 interest shall be deposited in the reserve fund and
40 service credit so granted at the time of retirement shall
41 not exceed the lesser of ten years or fifty percent of the
42 member's total service as a teacher in West Virginia.
43 Any transfer of out-of-state service, as provided in this

44 article, shall not be used to establish eligibility for a
45 retirement allowance and the retirement board shall
46 grant credit for such transferred service as additional
47 service only: *Provided, however,* That a transfer of out-
48 of-state service shall be prohibited if such service is used
49 to obtain a retirement benefit from another retirement
50 system: *Provided further,* That salaries paid to members
51 for service prior to entrance into the retirement system
52 shall not be used to compute the average final salary of
53 such member under the retirement system.

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

62 No members shall be deemed absent from service
63 while serving as a member or employee of the Legisla-
64 ture of the state of West Virginia during any duly
65 constituted session of that body or while serving as an
66 elected member of a county commission during any duly
67 constituted session of that body: *Provided,* That the
68 member makes contributions to the system equal to
69 what would have been contributed during the period of
70 absence had he performed his duties.

71 No member shall be deemed absent from service as
72 a teacher while serving as an officer with a statewide
73 professional teaching association, or who has served in
74 such capacity, and no retired teacher, who served in
75 such capacity while a member, shall be deemed to have
76 been absent from service as a teacher by reason of such
77 service: *Provided,* That the period of service credit
78 granted for such service shall not exceed six years:
79 *Provided, however,* That a member or retired teacher
80 who is serving or has served as an officer of a statewide
81 professional teaching association shall make deposits to
82 the teachers retirement board, for the time of any such
83 absence, in an amount double the amount which he
84 would have contributed in his regular assignment for a

85 like period of time.

86 The teachers retirement board shall grant service
87 credit to any former or present member of the West
88 Virginia public employees retirement system who has
89 been a contributing member for more than three years,
90 for service previously credited by the public employees
91 retirement system, and (1) shall require the transfer of
92 the member's contributions to the teachers retirement
93 system or (2) shall require a repayment of the amount
94 withdrawn any time prior to the member's retirement:
95 *Provided*, That there shall be added by the member to
96 the amounts transferred or repaid under this paragraph
97 an amount which shall be sufficient to equal the
98 contributions he would have made had the member been
99 under the teachers retirement system during the period
100 of his membership in the public employees retirement
101 system plus interest at a rate of six percent compounded
102 annually from the date of withdrawal to the date of
103 payment. The interest paid shall be deposited in the
104 reserve fund.

105 For service as a teacher in an elementary or secondary
106 parochial school, located within this state and fully
107 accredited by the West Virginia department of educa-
108 tion, the retirement board shall grant credit to the
109 member: *Provided*, That the member shall pay to the
110 system double the amount contributed during the first
111 full year of current employment, times the number of
112 years for which credit is granted, plus interest at a rate
113 to be determined by the retirement board. Such interest
114 shall be deposited in the reserve fund and service so
115 granted at the time of retirement shall not exceed the
116 lesser of ten years or fifty percent of the member's total
117 service as a teacher in the West Virginia public school
118 system. Any transfer of parochial school service, as
119 provided in this section, may not be used to establish
120 eligibility for a retirement allowance and the board
121 shall grant credit for such transfer as additional service
122 only: *Provided, however*, That a transfer of parochial
123 school service is prohibited if such service is used to
124 obtain a retirement benefit from another retirement
125 system.

126 If a member is not eligible for prior service credit or
127 pension as provided in this article, then his prior service
128 shall not be deemed a part of his total service.

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

133 Subject to the above provisions, the board shall verify
134 as soon as practicable the statements of service submit-
135 ted. The retirement board shall issue prior service
136 certificates to all persons eligible therefor under the
137 provisions of this article. Such certificates shall state the
138 length of such prior service credit, but in no case shall
139 the prior service credit exceed forty years.

§18-7A-26. Computation of annuities.

1 Annuitants whose annuities were approved by the
2 retirement board effective before July first, one thou-
3 sand nine hundred eighty, shall be paid the annuities
4 which were approved by the retirement board.

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

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

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

23 (b) The actuarial equivalent of the voluntary deposits

24 of the member in his individual account up to the time
25 of his retirement, with regular interest.

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

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

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

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

60 Any person who has attained the age of sixty-five and
61 who has served at least twenty-five years as a teacher
62 prior to July one, one thousand nine hundred forty-one,
63 shall be eligible for prior service credit and for prior

64 service pensions as prescribed in this section.

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

13 Notwithstanding the provisions of section twenty-
14 three, article seven-a of this chapter, any employee
15 whose employment terminates after the thirtieth day of
16 June, one thousand nine hundred ninety-one, who is
17 later reemployed by an employer shall be eligible for
18 membership only in the teachers' defined contribution
19 system: *Provided*, That if such reemployment with an
20 existing employer occurs not more than six months after
21 the employee's previous employment, he or she shall be
22 entitled to readmission to the existing retirement system
23 in which he or she was originally a member: *Provided*,
24 *however*, That if such employee has ten or more years
25 of credited service in the existing retirement system, he
26 or she shall be entitled to readmission into the existing
27 retirement system in which he or she was originally a
28 member, so long as he or she has not withdrawn his or
29 her contributions from the existing retirement system:
30 *Provided further*, That if such employee has withdrawn
31 his or her contribution from the existing retirement
32 system, then readmission shall not be permitted and the
33 employee will be entitled only to the defined contribu-
34 tion system.

35 An employee whose employment with an employer
36 was suspended or terminated while he or she served as
37 an officer with a statewide professional teaching
38 association, is eligible for readmission to the existing
39 retirement system in which he or she was a member.

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

47 In all cases where a question exists as to readmission
48 to membership in the existing retirement system, the
49 board shall decide the question.

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

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker of the House of Delegates

The within this the
day of, 1994.

.....
Governor



PRESENTED TO THE

GOVERNOR

Date 3/25/94

Time 10:09 am