WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

---

ENROLLED

House Bill No. 2400

(By Delegates Browning and Kiss)

Passed March 10, 1995

In Effect Passage
AN ACT to amend and reenact sections seven and nine, article seven-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to teachers' retirement systems; providing for re-entry into the defined benefit plan; and authorizing a study of the feasibility of allowing members to make additional voluntary contributions to the teachers' defined benefit contribution retirement system.

Be it enacted by the Legislature of West Virginia:

That sections seven and nine, article seven-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-7. Participation in teachers' defined contribution retirement system; limiting participation in existing
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 five 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. Any employee reemployed with an employer on or after the first day of July, one thousand nine hundred ninety-one, who had five or more years credited service in the teachers' defined benefit retirement system may elect readmission to the teachers' defined benefit retirement system in which he or she was originally a member. Any employee reemployed between the first day of July, one thousand nine hundred ninety-one, and the first day of July, one thousand nine hundred ninety-five, who was required to participate in the teachers' defined contribution system but now elects, pursuant to the provisions of this section, readmission to the teachers' defined benefit retirement system shall pay an additional contribution to the teachers' defined benefit retirement system equal to one and one-half percent of his or her annual gross compensation earned for each year he or she participated in the teachers' defined contribution system and shall transfer all member and employer contributions and investment earnings therefrom from the teacher defined contribution system to the teachers' defined benefit system and shall receive service credit for the time the member participated in the defined contribution system as if that participation had been in the teachers' defined benefit retirement system. Any member making an election under the provisions of this section to reenter the teachers' defined benefit retirement system who is currently a member of the defined contribution retirement system must do so on or before the first day of January, one thousand nine hundred ninety-six. Any other member reemployed must make the election as to the retirement system that he or she will be a member of at the time he or she is reemployed.

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.

§18-7B-9. Members' contributions; annuity account established.

Each employee who is a member of the defined contribution system shall contribute four and one-half percent of his or her gross compensation by salary reduction. Such salary reductions shall be made by the employer at the normal payroll intervals and shall be remitted within five working days to the private pension, insurance, annuity, mutual fund, or other qualified company or companies designated by the board to administer the day-to-day operations of the system.

All member contributions shall be immediately deposited to an account or accounts established in the name of the member and held in trust for the benefit of the member. An account agreement shall be issued to each member setting forth the terms and conditions under which contributions are received, and the investment and retirement options available to the member. The board shall promulgate by the thirtieth day of June, one thousand eight hundred ninety-one, pursuant to section six of this article, rules defining the minimum requirements for the investment and retirement options to be provided to the members.

The consolidated public employees retirement board shall study the feasibility of employees making personal contributions to the defined contribution system in addition to those required by this section and the impact of the United States Internal Revenue Code of one thousand nine hundred eighty-six, as amended, upon such contributions. The results of said study and recommendations for legislation to authorize such additional payments shall be pre-
sent to the committee on pensions and retirement of each house of the Legislature on or before the first day of October, one thousand nine hundred ninety-six.

Such rules, to the extent not inconsistent with the applicable provisions of the Internal Revenue Code of the United States, shall provide for varied retirement options including, but not limited to:

1. Lump sum distributions;
2. Joint and survivor annuities;
3. Other annuity forms in the discretion of the board;
4. Variable annuities which gradually increase monthly retirement payments: Provided, That said increased payments are funded solely by the existing current value of the member's account at the time the member's retirement payments commencement and not, to any extent, in a manner which would require additional employer or employee contributions to any member's account after retirement or after the cessation of employment; and
5. The instances in which, if any, distributions or loans can be made to members from their annuity account balances prior to having attained the age of fifty-five.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoupe
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

Dorrell Hall
Clerk of the Senate

Donald L. Huff
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Speaker of the House of Delegates

The within __________________ this the ___________ day of _______________________, 1995.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/28/45
Time 8:57 am