

RECEIVED

98 APR -2 PM 3:39

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



# ENROLLED

## House Bill No. 4227

(By Jenkins, Hubbard and Michael)



Passed March 14, 1998

In Effect from Passage

RECEIVED

98 APR -2 PM 3:40

OFFICE OF THE CLERK  
SECRETARY OF STATE

**ENROLLED**

# **H. B. 4227**

(BY DELEGATES JENKINS, HUBBARD AND MICHAEL)

---

[Passed March 14, 1998; in effect from passage.]

---

AN ACT to amend and reenact section forty-one, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two, three and five, article ten-b of said chapter; to further amend said article by adding thereto a new section, designated section ten; and to amend article ten-d of said chapter by adding thereto a new section, designated section six, all relating to the West Virginia Public Employees Act; providing that the interest rate calculation be performed on a calender year basis; incorporating federal tax law limitations on the maximum compensation that can be taken into account for the purpose of determining retirement benefits and contributions to retirement plans; and incorporating federal requirements that all assets of government deferred pension plans be held in trust for the benefit of members and their beneficiaries.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

**§5-10-41. Allowance of regular interest on balances in funds.**

1 The board of trustees shall, at the end of each calendar  
2 year, allow and credit regular interest on the balance at the  
3 beginning of the said fiscal year in each member's  
4 individual account in the members deposit fund, and on  
5 the mean balances in the employers accumulation fund  
6 and the retirement reserve fund. The interest so allowed  
7 and credited shall be charged to the income fund.

**ARTICLE 10B. GOVERNMENT EMPLOYEES DEFERRED COM-  
PENSATION PLANS.**

**§5-10B-2. Definitions.**

1 Unless the context in which used clearly indicates a  
2 different meaning, as used in this article:

3 (a) "Board" means the consolidated public retirement  
4 board provided for in article ten of this chapter.

5 (b) "Deferred compensation plan" means a trust  
6 whereby the state of West Virginia, as the public employer,  
7 or a public employer agrees with an employee for the  
8 voluntary reduction in employee compensation for the  
9 payment of benefits by the state employer or the public  
10 employer to the employee at a later date pursuant to this  
11 article and the federal laws and regulations relating to  
12 eligible state deferred compensation plans as described in  
13 Section 457 of the Internal Revenue Code.

14 (c) "Employee" means any person, whether  
15 appointed, elected, or under contract, providing services  
16 for the state employer or public employer, for which  
17 compensation is paid.

18 (d) "Public employer" means counties, municipalities  
19 or political subdivisions of such governmental bodies  
20 which meet the definition of "state" as described in  
21 Internal Revenue Code Section 457 (d) (1), but which do  
22 not meet the definition of "state employer" as used in this  
23 article.

24 (e) "State employer" means the state of West Virginia  
25 and any state agency or instrumentality of the state.

**§5-10B-3. Contracts for deferred compensation plans —  
Approval of plans — Approval of companies  
providing investments.**

1       The state employer or any public employer may, by  
2 contract, agree with any of its employees to defer and hold  
3 in trust any portion of that employee's compensation and  
4 may subsequently purchase or acquire from any company  
5 licensed to do business in the state of West Virginia fixed  
6 or variable annuities, insurance, endowment, or savings  
7 account for the purpose of carrying out the objectives of  
8 the deferred compensation plan as described in this article.

**§5-10B-5. Investment of funds.**

1       Notwithstanding any other provision of law to the  
2 contrary, the board as well as the appropriate local officer,  
3 board or committee, designated as responsible for  
4 implementing a deferred compensation plan, is hereby  
5 authorized to invest compensation held pursuant to any  
6 such deferred compensation plan in fixed and variable  
7 annuities, mutual funds, insurance, endowment or savings  
8 accounts from any company duly authorized to contract  
9 such business in the state.

**§5-10B-10. Deferred compensation plan funds held in trust.**

1       Notwithstanding anything herein to the contrary, as of  
2 the first day of January, one thousand nine hundred  
3 ninety-eight, all assets and income of all deferred  
4 compensation plans created or administered pursuant to  
5 this article shall be held in trust for the exclusive benefit of  
6 participants and their beneficiaries.

**ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.**

**§5-10D-6. Compensation limitations; effective dates.**

1       Effective for plan years beginning after the thirty-first  
2 day of December, one thousand nine hundred ninety-five,  
3 the annual compensation of a participant taken into  
4 account in determining benefits or contributions under  
5 any of the public retirement plans administered by the  
6 board and which are qualified plans under section 401(a)  
7 of the Internal Revenue Code may not exceed one  
8 hundred fifty thousand dollars. This provision shall apply  
9 notwithstanding any other provision to the contrary in this  
10 code and notwithstanding any provisions of any  
11 legislative rule.

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

*Andy Schorover*  
Chairman Senate Committee

*Nick Frantasia*  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Correll Rhodes*  
Clerk of the Senate

*Dugan M. Day*  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
President of the Senate

*[Signature]*  
Speaker of the House of Delegates

The within approved this the 1st  
day of April, 1998.

*[Signature]*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/98

Time 10:30 am