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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 4537

(By Mr. Speaker, Mr. Kiss, and Delegate Martin,
Jenkins, Michael, Staton, Varner and Hubbard)



Passed March 14, 1998

In Effect Ninety Days from Passage

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H. B. 4537

(BY MR. SPEAKER, MR. KISS, AND DELEGATES MARTIN,
JENKINS, MICHAEL, STATON, VARNER, AND HUBBARD)

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

AN ACT to amend and reenact sections fourteen and eighteen, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to providing members of the public employees retirement system a period of time to purchase prior credited service which was forfeited due to the employee having left covered service; requiring repayment of any amounts withdrawn with interest thereon; establishing the manner of repayment and setting forth a time period during which repayment may be made; providing that a legislative employee may receive three months service credit for each thirty day session worked prior to one thousand nine hundred seventy-one; extending the date for a legislative employee to purchase retroactive service credit; clarifying that a legislative employee is entitled to the service credit provided regardless when the service occurred; clarifying that regular session legislative employment for seven consecutive years may be served in either or both houses of the Legislature; clarifying that service credit awarded for legislative employment pursuant to this section shall be used not only for the purpose of calculating that member's retirement annuity but also for determining eligibility as it relates to credited service; providing that any legislative employee may request

a recalculation of credited service to comply with the provisions of this section; and providing that the service credit requirements of this section shall be applied retroactively to all periods of legislative employment prior to the passage of this section, including any periods of legislative employment occurring before the seven consecutive calendar year employment referenced in this section.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-14. Service credit; retroactive provisions.

1 (a) The board of trustees shall credit each member
2 with the prior service and contributing service to which he
3 or she is entitled based upon such rules as the board of
4 trustees shall from time to time adopt and based upon the
5 following:

6 (1) Ten or more days of service rendered by a
7 member in any calendar month shall be credited as a
8 month of service: *Provided*, That for employees of the
9 state Legislature whose term of employment is otherwise
10 classified as temporary and who are employed to perform
11 services required by the Legislature for its regular sessions
12 or during the interim between regular sessions and who
13 have been or are so employed during regular sessions or
14 during the interim between regular sessions in seven
15 consecutive calendar years, service credit of one month
16 shall be awarded for each ten days employed in the
17 interim between regular sessions, which interim days shall
18 be cumulatively calculated so that any ten days, regardless
19 of calendar month or year, shall be calculated toward any
20 award of one month of service credit;

21 (2) Ten or more months of service credit earned in
22 any calendar year shall be credited as a year of service;

23 (3) No more than one year of service may be credited
24 to any member for all service rendered by him or her in
25 any calendar year; and

26 (4) Service may be credited to a member who was
27 employed by a political subdivision if his or her
28 employment occurred within a period of thirty years
29 immediately preceding the date the political subdivision
30 became a participating public employer.

31 (b) The board of trustees shall grant service credit to
32 employees of boards of health, the clerk of the House of
33 Delegates and the clerk of the state Senate, or to any
34 former and present member of the state teachers
35 retirement system who have been contributing members
36 for more than three years, for service previously credited
37 by the state teachers retirement system and shall require
38 the transfer of the member's contributions to the system
39 and shall also require a deposit, with interest, of any
40 withdrawals of contributions any time prior to the
41 member's retirement. Repayment of withdrawals shall be
42 as directed by the board of trustees.

43 (c) Court reporters who are acting in an official
44 capacity, although paid by funds other than the county
45 commission or state auditor, may receive prior service
46 credit for time served in that capacity.

47 (d) Employees of the state Legislature whose terms of
48 employment are otherwise classified as temporary and
49 who are employed to perform services required by the
50 Legislature for its regular sessions or during the interim
51 between regular sessions shall receive service credit for the
52 time served in that capacity in accordance with the
53 following. Employees of the state Legislature whose term
54 of employment is otherwise classified as temporary and
55 who are employed to perform services required by the
56 Legislature for its regular sessions or during the interim
57 between regular sessions and who have been or are
58 employed during regular sessions or during the interim
59 between regular sessions in seven consecutive calendar
60 years, as certified by the clerk of the houses in which the
61 employee served, shall receive service credit of six months
62 for all regular sessions served as certified by the clerk of

63 the houses in which the employee served, or shall receive
64 service credit of three months for each regular thirty day
65 session served prior to one thousand nine hundred
66 seventy-one, as certified by the clerk of the houses in
67 which the employee served, and shall receive service credit
68 of one month for each ten days served during the interim
69 between regular sessions, which interim days shall be
70 cumulatively calculated so that any ten days, regardless of
71 calendar month or year, shall be calculated toward any
72 award of one month of service credit. Service credit
73 awarded for legislative employment pursuant to this
74 section shall be used for the purpose of calculating that
75 member's retirement annuity, pursuant to section twenty-
76 two of this article, and determining eligibility as it relates
77 to credited service, notwithstanding any other provision of
78 this section. Certification of employment for a complete
79 legislative session and for days of interim sessions shall be
80 determined by the clerk of the houses in which the
81 employee served, based upon employment records.
82 Service of fifty-five days of a regular session constitutes a
83 presumption of service for a complete legislative session,
84 and service of twenty seven days of a thirty day regular
85 session occurring prior to one thousand nine hundred
86 seventy-one constitutes a presumption of service for a
87 complete legislative session. Once a legislative employee
88 has been employed during regular sessions for seven
89 consecutive years or has become a full time employee of
90 the legislature, that employee shall receive the service
91 credit provided in this section for all regular and interim
92 sessions worked by that employee, as certified by the clerk
93 of the houses in which the employee served, regardless of
94 when the session or interim legislative employment
95 occurred: *Provided*, That regular session legislative
96 employment for seven consecutive years may be served in
97 either or both houses of the Legislature.

98 Any employee may purchase retroactive service credit
99 for periods of employment in which contributions were
100 not deducted from the employee's pay. In the purchase of
101 service credit for employment prior to the year one
102 thousand nine hundred eighty-nine in any department,
103 including the Legislature, which operated from the general

104 revenue fund and which was not expressly excluded from
105 budget appropriations in which blanket appropriations
106 were made for the state's share of public employees'
107 retirement coverage in the years prior to the year one
108 thousand nine hundred eighty-nine, the employee shall
109 pay the employee's share. Other employees shall pay the
110 state's share and the employee's share to purchase
111 retroactive service credit. Where an employee purchases
112 service credit for employment which occurred after the
113 year one thousand nine hundred eighty-eight, that
114 employee shall pay for the employee's share and the
115 employer shall pay its share for the purchase of retroactive
116 service credit: *Provided*, That no legislative employee
117 may be required to pay any interest or penalty upon the
118 purchase of retroactive service credit in accordance with
119 the provisions of this section where the employee was not
120 eligible to become a member during the years he or she is
121 purchasing retroactive credit for or had the employee
122 attempted to contribute to the system during the years he
123 or she is purchasing retroactive service credit for and such
124 contributions would have been refused by the board:
125 *Provided, however*, That a legislative employee
126 purchasing retroactive credit under this section does so
127 within twenty-four months of becoming a member of the
128 system or no later than the last day of December, two
129 thousand two, whichever occurs last: *Provided further*,
130 That once a legislative employee becomes a member of
131 the retirement system, he or she may purchase retroactive
132 service credit for any time he or she was employed by the
133 Legislature and did not receive service credit. Any service
134 credit purchased shall be credited as six months for each
135 sixty day session worked and three months for each thirty
136 day session worked, and credit for interim sessions as
137 provided in this subsection: *And provided further*, That
138 this legislative service credit shall also be used for months
139 of service in order to meet the sixty month requirement
140 for the payments of a member's retirement annuity: *And*
141 *provided further*, That no legislative employee may be
142 required to pay for any service credit beyond the actual
143 time he or she worked regardless of the service credit
144 which is credited to him or her pursuant to this section:
145 *And provided further*, That any legislative employee may

146 request a recalculation of his or her credited service to
147 comply with the provisions of this section at any time.

148 (e) Notwithstanding any provision to the contrary, the
149 seven consecutive calendar years requirement and the
150 service credit requirements set forth in this section shall be
151 applied retroactively to all periods of legislative
152 employment prior to the passage of this section, including
153 any periods of legislative employment occurring before
154 the seven consecutive calendar years referenced in this
155 section.

§5-10-18. Termination of membership; reentry.

1 (a) When a member of the retirement system retires or
2 dies, he or she ceases to be a member. When a member
3 leaves the employ of a participating public employer for
4 any other reason, he or she ceases to be a member and
5 forfeits service credited to him or her at that time. If he or
6 she becomes reemployed by a participating public
7 employer he or she shall be reinstated as a member of the
8 retirement system and his or her credited service last
9 forfeited by him or her shall be restored to his or her
10 credit: *Provided*, That he or she must be reemployed for
11 a period of one year or longer to have the service restored:
12 *Provided, however*, That he or she returns to the
13 members' deposit fund the amount, if any, he or she
14 withdrew from the fund, together with regular interest on
15 the withdrawn amount from the date of withdrawal to the
16 date of repayment, and that the repayment begins within
17 two years of the return to employment and that the full
18 amount is repaid within five years of the return to
19 employment.

20 (b) Effective on the first day of July, one thousand
21 nine hundred ninety-seven, and continuing through the
22 first day of July, one thousand nine hundred ninety-eight,
23 any employee of the Prestera center for mental health
24 services, valley comprehensive mental health center,
25 Westbrook health services and eastern panhandle mental
26 health center who is a member of the retirement system
27 may elect to withdraw from membership without forfeiting
28 service credited to him or her.

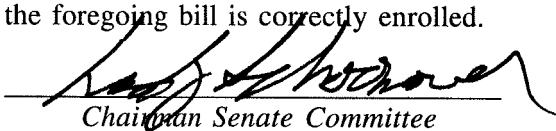
29 (c) The Prestera center for mental health services,
30 valley comprehensive mental health center, Westbrook
31 health services and eastern panhandle mental health center,
32 and their successors in interest, shall provide for their
33 employees a pension plan in lieu of the public employees
34 retirement system on or before the first day of July, one
35 thousand nine hundred ninety-seven, and continuing
36 thereafter during the existence of the named mental health
37 centers and their successors in interest.


38 (d) The administrative bodies of the Prestera center for
39 mental health services, valley comprehensive mental health
40 center, Westbrook health services and eastern panhandle
41 mental health center shall, on or before the first day of
42 May, one thousand nine hundred ninety-seven, give
43 written notice to each employee who is a member of the
44 public employees retirement system of the option to
45 withdraw from or remain in the system. The notice shall
46 include a copy of this section and a statement explaining
47 the member's options regarding membership. The notice
48 shall include a statement in plain language giving a full
49 explanation and actuarial projection figures in support of
50 the explanation regarding the individual member's
51 current account balance, vested and nonvested, and his or
52 her projected return upon remaining in the public
53 employees retirement system until retirement, disability or
54 death, in comparison with the projected return upon
55 withdrawing from the public employees retirement system
56 and joining a private pension plan provided by the
57 community mental health center and remaining therein
58 until retirement, disability or death. The administrative
59 bodies shall keep in their respective records a permanent
60 record of each employee's signature confirming receipt
61 of the notice.

62 (e) Effective the first day of March, one thousand nine
63 hundred ninety-eight, and ending the thirty-first day of
64 December, two thousand two, any member may purchase
65 credited service previously forfeited by him or her and
66 such credited service shall be restored to his or her credit:
67 *Provided*, That he or she returns to the members' deposit
68 fund the amount, if any, he or she withdrew from the fund,
69 together with interest on the withdrawn amount from the

70 date of withdrawal to the date of repayment at a rate to be
71 determined by the board. The repayment under this
72 section may be made by lump sum or repaid over a period
73 of time not to exceed sixty months. Where the member
74 elects to repay the required amount other than by lump
75 sum, the member is required to pay interest at the rate
76 determined by the board until all sums are fully repaid.

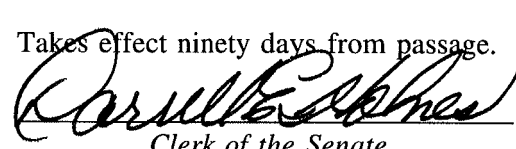
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee


Chairman House Committee

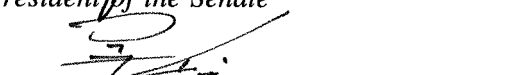
Originating in the House.

Takes effect ninety days from passage.

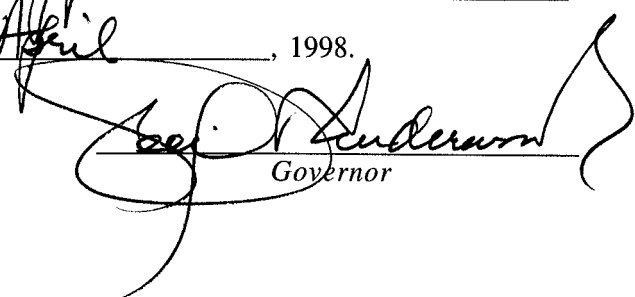

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 8th
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/6/98

Time 12:03 pm