

SB 682

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



ENROLLED

SENATE BILL NO. 682

(By Senator PLYMALE, ET AL)



PASSED MARCH 10, 1999

In Effect From Passage

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SENATE OF WEST VIRGINIA

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Senate Bill No. 682

(BY SENATORS PLYMALE, JACKSON, EDGELL AND SPROUSE)

[Passed March 10, 1999; in effect from passage.]

AN ACT to amend and reenact sections three, four and five, article ten-c, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to including the deputy sheriff retirement system in the government employees retirement plans for purposes of deferring contributions to the deputy sheriff retirement system under the internal revenue code of 1986.

Be it enacted by the Legislature of West Virginia:

That sections three, four and five, article ten-c, 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 10C. GOVERNMENT EMPLOYEES RETIREMENT PLANS.

§5-10C-3. Definitions.

- 1 The following words and phrases as used in this article,
- 2 unless a different meaning is clearly indicated by the
- 3 context, have the following meanings:
- 4 (1) "Accumulated contributions" means the sum of all
- 5 amounts credited to a member's individual account in the

6 members' deposit fund and includes both contributions
7 deducted from the compensation of a member and contri-
8 butions of a member picked up and paid by the member's
9 participating public employer, plus applicable interest
10 thereon.

11 (2) "Board of trustees" means, as appropriate: The board
12 of trustees of the West Virginia public employees retire-
13 ment system created in article ten, chapter five of this
14 code; the retirement board of the West Virginia depart-
15 ment of public safety death, disability and retirement fund
16 created in section twenty-six, article two, chapter fifteen
17 of this code; the retirement board of the state teachers and
18 board of regents retirement system created in article
19 seven-a, chapter eighteen of this code; the governing board
20 of the board of regents supplemental and additional
21 retirement plans created in section four-a, article twenty-
22 three, chapter eighteen of this code; the retirement board
23 of the judges' retirement system created in article nine,
24 chapter fifty-one of this code; or the board of trustees of
25 the firemen's and policemen's pension and relief funds
26 created in article twenty-two, chapter eight of this code.

27 (3) "Employee" means any person, whether appointed,
28 elected, or under contract, providing services for a public
29 employer, for which compensation is paid and who is a
30 member of the applicable retirement system.

31 (4) "Member" means any employee who is included in a
32 retirement system.

33 (5) "Member contributions" means, as appropriate: The
34 contributions required by section twenty-nine, article ten,
35 chapter five of this code, from employees who are members
36 of the West Virginia public employees retirement system;
37 the contributions required by section twenty-six, article
38 two, chapter fifteen of this code, from employees who are
39 members of the West Virginia department of public safety
40 death, disability and retirement fund; the contributions
41 required by section seven, article fourteen-d, chapter seven
42 of this code, from employees who are members of the
43 deputy sheriff retirement system; the contributions
44 required by section fourteen, article seven-a, chapter
45 eighteen of this code, from employees who are members of

46 the state teachers retirement system; the contributions
47 authorized by section fourteen-a, article seven-a, chapter
48 eighteen or by section four-a, article twenty-three, chapter
49 eighteen, from employees who are members of the West
50 Virginia board of regents retirement plans; the contribu-
51 tions required by section four, article nine, chapter fifty-
52 one of this code, from employees who are members of the
53 judges' retirement system; or the contributions required by
54 section sixteen, article twenty-two, chapter eight of this
55 code, from employees who are members of the firemen's
56 and policemen's pension and relief funds.

57 (6) "Participating public employer" means the state of
58 West Virginia, any board, commission, department,
59 institution or spending unit, and shall include any agency
60 with full-time employees, created by rule of the supreme
61 court of appeals, which for the purpose of this article shall
62 be considered a department of state government, and
63 county boards of education with respect to teachers
64 employed by them; any political subdivision in the state
65 which has elected to cover its employees, as defined in this
66 article, under the West Virginia public employees retire-
67 ment system; any political subdivision in the state which
68 has elected to cover its employees, as defined in this
69 article, under the deputy sheriff retirement system; and
70 any political subdivision in this state which is subject to
71 the provisions of article twenty-two, chapter eight of this
72 code.

73 (7) "Political subdivision" means the state of West
74 Virginia, a county, city or town in the state; a school
75 corporation or corporate unit; any separate corporation or
76 instrumentality established by one or more counties, cities
77 or towns, as permitted by law; any corporation or instru-
78 mentality supported in most part by counties, cities or
79 towns; any public corporation charged by law with the
80 performance of a governmental function and whose
81 jurisdiction is coextensive with one or more counties, cities
82 or towns, any agency or organization established by, or
83 approved by the department of health for the provision of
84 community health or mental retardation services, and
85 which is supported in part by state, county or municipal
86 funds.

87 (8) "Retirement system" means, as appropriate: The
88 West Virginia public employees retirement system created
89 in article ten, chapter five of this code; the West Virginia
90 department of public safety death, disability and retire-
91 ment fund created in sections twenty-six through thirty-
92 eight, article two, chapter fifteen of this code; the West
93 Virginia deputy sheriff retirement system created in article
94 fourteen-d, chapter seven of this code; the state teachers
95 retirement system created in article seven-a, chapter
96 eighteen of this code; the West Virginia board of regents
97 retirement plans created in section fourteen-a, article
98 seven-a, chapter eighteen and section four-a, article
99 twenty-three, chapter eighteen of this code; the judges'
100 retirement system created in article nine, chapter fifty-one
101 of this code; or the firemen's or policemen's pension and
102 relief fund created in section sixteen, article twenty-two,
103 chapter eight of this code.

104 (9) "Teacher" has the meaning ascribed to it in section
105 three, article seven-a, chapter eighteen of this code.

**§5-10C-4. Pick-up of members' contributions by participating
public employers.**

1 (a) The state of West Virginia for its public employees
2 and county boards of education for its teachers shall pick-
3 up and pay the contributions which such employees are
4 required by law to make to the retirement system in which
5 they are a member for all compensation earned by its
6 member employees after the thirtieth day of June, one
7 thousand nine hundred eighty-six. Any political subdivi-
8 sion that is a participating public employer in the West
9 Virginia public employees retirement system shall pick-up
10 and pay the contributions which such employees are
11 required by law to make to the retirement system in which
12 they are members for all compensation earned by its
13 member employees after the first day of January, one
14 thousand nine hundred ninety-five. Counties shall pick-up
15 and pay the contributions which such employees are
16 required by law to make to the deputy sheriff retirement
17 system in which they are members for all compensation
18 earned by its member employees after the thirtieth day of
19 June, one thousand nine hundred ninety-eight. Any

20 election made by a political subdivision to pick-up and
21 pay employee contributions prior to the first day of
22 January, one thousand nine hundred ninety-five, remains
23 in effect and is not altered or amended by the amendments
24 made to this section during the regular legislative session,
25 one thousand nine hundred ninety-five.

26 (b) When the participating public employer picks up and
27 pays the contributions of its member employees, the
28 contributions shall be treated as employer contributions in
29 determining the tax treatment thereof under article
30 twenty-one, chapter eleven of this code, and the federal
31 Internal Revenue Code of 1986, as amended, and the
32 contributions shall not be included in the gross income of
33 the employee in determining his or her tax treatment
34 under those provisions until they are distributed or made
35 available to the employee or his or her beneficiary. The
36 participating public employer shall pay these employee
37 contributions from the same source of funds used in
38 paying compensation to the employee, by effecting an
39 equal cash reduction in the gross salary of the employee,
40 or by an off-set against future salary increases, or by a
41 combination of reduction in gross salary and off-set
42 against future salary increases.

43 (c) When employee contributions are picked up and paid
44 by the participating public employer, they shall be treated
45 by the board of trustees in the same manner and to the
46 same extent as employee contributions made prior to the
47 date on which employee contributions are picked up by the
48 participating public employer.

49 (d) The amount of employee contributions picked up by
50 the participating public employer shall be paid to the
51 retirement system in the manner and form, and in the
52 frequency required by the board of trustees and shall be
53 accompanied by supporting data that the board of trustees
54 may prescribe. When paid to the retirement system, each
55 of these amounts shall be credited to the deposit fund
56 account of the member for whom the contribution was
57 picked up and paid by the participating public employer.

§5-10C-5. Savings clause.

1 In enacting this article, it is the intent of the Legislature
2 that the retirement plan created pursuant to this article
3 and those created pursuant to article ten, chapter five;
4 article fourteen-d, chapter seven; article two, chapter
5 fifteen; article seven-a, chapter eighteen and article nine,
6 chapter fifty-one of this code qualify under section 401 of
7 the Internal Revenue Code of 1954, as amended, and that
8 the member contributions picked up by the participating
9 public employer qualify under subsection (h), section 414
10 of the Internal Revenue Code of 1954, as amended. Should
11 the United States Internal Revenue Service not approve of
12 certain sections or phraseology of certain sections of this
13 article as being in compliance with the statutes or rules
14 governing the Internal Revenue Service, the respective
15 boards of trustees, in the adoption of the deferred compen-
16 sation plan, shall adopt such terminology with respect to
17 those sections as will comply therewith.

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

[Signature]

Chairman Senate Committee

[Signature]

Chairman House Committee

Originating in the Senate.

In effect from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

The within *[Signature]* this the *24th*
Day of *March*, 19*99*

[Signature]

Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/99

Time 11:10 am