WEST VIRGINIA LEGISLATURE  
SECOND REGULAR SESSION, 2000  

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ENROLLED  

COMMITTEE SUBSTITUTE FOR  
House Bill No. 4391  

(By Delegates Givens, Sparks, Manuel, Yeager, Linch, Modesitt and H. White)  

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Passed March 10, 2000  

In Effect Ninety Days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4391

(BY DELEGATES GIVENS, SPARKS, MANUEL, YEAGER, LINCH, MODESITT AND H. WHITE)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section fifteen, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section fifteen-b, all relating to public employees retirement; granting service credit for persons entering the active service of the armed forces of the United States during periods of compulsory military service; granting service credit for persons in the active service of the armed forces of the United States during periods of armed conflict; requirements needed to qualify for credit; defining terms; and authorizing legislative rules.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by
ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-15. Military service credit; periods of compulsory military service.

(a) (1) In addition to any benefit provided by federal law, any member of the retirement system who has previously served in or enters the active service of the armed forces of the United States during any period of compulsory military service shall receive credited service for said time spent in the armed forces of the United States, not to exceed five years if such member:

(A) Has been honorably discharged from the armed forces;

(B) Substantiates by appropriate documentation or evidence his or her active military service and entry therein during any period of compulsory military service; and

(C) Pays to the members' deposit fund the amount he or she may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(2) Any member of the retirement system who enters the active service of the armed forces of the United States during any period of compulsory military service shall receive the credit provided by this section regardless of whether he or she was a public employee at the time of entering the military service.

(3) No member may receive the credit described in this section for any period for which the member has received credit under section ten-b of this article.

(b) In any case of doubt as to the period of service to be credited a member under the provisions of this section, the board of trustees shall have final power to determine such period.
During the period of such armed service and until the member’s return to the employ of a participating public employer, the member’s contributions to the retirement system shall be suspended and any credit balance remaining in the members’ deposit fund shall be accumulated at regular interest.

§5-10-15b. Military service credit; periods of armed conflict.

(a) The Legislature hereby recognizes the men and women of this state who have served in the armed forces of the United States during times of war, conflict and danger. It is the intent of this section to confer upon persons who are eligible at any time for public employees retirement benefits military service credits for any time served in active duty in the armed forces of the United States when such duty was during periods of armed conflict.

(b)(1) In addition to any benefit provided by federal law, any member of the retirement system who has previously served in or enters the active service of the armed forces of the United States during any period of armed conflict shall receive credited service for said time spent in active duty in the armed forces of the United States during the period of armed conflict, not to exceed five years if such member:

(A) Has been honorably discharged from the armed forces;

(B) Substantiates by appropriate documentation or evidence his or her active military service during periods of armed conflict; and

(C) Pays to the members’ deposit fund the amount he or she may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.

(2) Any member of the retirement system who previously served on active military duty during a period of armed conflict shall receive the credit provided by this section regardless of whether he or she was a public employee at the time of service.
(3) No member may receive the credit described in this section for any period for which the member has received credit under section ten of this article.

(c) In any case of doubt as to the period of service to be credited a member under the provisions of this section, the board of trustees shall have final power to determine such period.

(d) If a member of the public employees retirement system enters the active service of the United States and serves during any period of armed conflict, during the period of such armed service and until the member's return to the employ of a participating public employer, the member's contributions to the retirement system shall be suspended and any credit balance remaining in the members' deposit fund shall be accumulated at regular interest.

(e) For purposes of this section, the following definitions shall apply:

(1) "Period of armed conflict" means the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and any other period of armed conflict by the United States, including, but not limited to, those periods sanctioned by a declaration of war by the United States Congress or by executive or other order of the president.

(2) "Spanish-American War" means the period beginning on the twenty-first day of April, one thousand eight hundred ninety-eight, and ending on the fourth day of July, one thousand nine hundred two, and includes the Philippine Insurrection, the Boxer Rebellion, and, in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on the twenty-first day of April, one thousand eight hundred ninety-eight, and ending on the fifteenth day of July, one thousand nine hundred three.
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(3) "The Mexican border period" means the period beginning on the ninth day of May, one thousand nine hundred sixteen, and ending on the fifth day of April, one thousand nine hundred seventeen, in the case of a veteran who during such period served in Mexico, on the borders thereof or in the waters adjacent thereto.

(4) "World War I" means the period beginning on the sixth day of April, one thousand nine hundred seventeen, and ending on the eleventh day of November, one thousand nine hundred eighteen, and, in the case of a veteran who served with the United States military forces in Russia, means the period beginning on the sixth day of April, one thousand nine hundred seventeen, and ending on the first day of April, one thousand nine hundred twenty,

(5) "World War II" means the period beginning on the seventh day of December, one thousand nine hundred forty-one, and ending on the thirty-first day of December, one thousand nine hundred forty-six.

(6) "Korean conflict" means the period beginning on the twenty-seventh day of June, one thousand nine hundred fifty, and ending on the thirty-first day of January, one thousand nine hundred fifty-five.

(7) "The Vietnam era" means the period beginning on the twenty-eighth day of February, one thousand nine hundred sixty-one, and ending on the seventh day of May, one thousand nine hundred seventy-five, in the case of a veteran who served in the Republic of Vietnam during that period; and the fifth day of August, one thousand nine hundred sixty-four, and ending on the seventh day of May, one thousand nine hundred seventy-five, in all other cases.

(8) "Persian Gulf War" means the period beginning on the second day of August, one thousand nine hundred ninety, and ending on the eleventh day of April, one thousand nine hundred ninety-one.
(9) The board is empowered to consider a petition by any member whose tour of duty, in territory that would reasonably be considered hostile and dangerous, was extended beyond the period in which an armed conflict was officially recognized, if that tour of duty commenced during a period of armed conflict, and the member was assigned to duty stations within the hostile territory throughout the period for which service credit is being sought. The board has the authority to evaluate the facts and circumstances peculiar to the petition, and rule on whether granting service credit for the extended tour of duty is consistent with the objectives of this article. In that determination, the board is empowered to grant full credit for the period under petition subject to the limitations otherwise applicable, or to grant credit for any part of the period as the board deems appropriate, or to deny credit altogether.

(f) The board of trustees may propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to administer the provisions of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In 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 approval this the ___ day of ___________, 2000.

Governor