WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2000

ENROLLED
Com. Sub. for Com. Sub. for
SENATE BILL NO. 2/5

(By Senator Phymake, et al)

PASSED March 11, 2000
In Effect ninety days from Passage
AN ACT to amend and reenact section twenty-three, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article seven-a, chapter eighteen of said code by adding thereto a new section, designated section twenty-three-a, all relating to the public employees retirement system and the teachers’ retirement system; and providing for terminal benefit payments and the return of any remaining employee contributions.
Be it enacted by the Legislature of West Virginia:

That section twenty-three, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article seven-a, chapter eighteen of said code be amended by adding thereto a new section, designated section twenty-three-a, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-23. Terminal payment.

For the purposes of this section, the term “accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a member. This includes, without limitation: (a) Benefits paid to the member as an annuity; (b) any lump sum distributions paid to the member or to any other person on account of the member’s rights to benefits from the plan; (c) survivor benefits paid to any person or persons on account of the member’s rights to benefits from the plan; and (d) any other distributions on account of the member’s rights to benefits from the plan whether they are paid in the nature of a refund of contributions, interest on contributions, lump sum distributions, or annuity type benefits. The amounts counted will be the amounts actually paid without regard to any optional form of any annuity benefit.

For the purposes of this section, the term “accumulated employee contributions” means all money the member has contributed to the plan, whether the form of the contribution was after tax deductions from wages, before tax
deductions from wages, direct remittance by the member

to repay contributions and interest previously distributed

and direct remittance by the member to pay imputed

contributions for periods which were not subject to

contributions but may be counted for benefit purposes

under the plan. The term accumulated employee contribu-
tions does not include any amount credited under the

provisions of the plan as interest on member contributions.

For the purposes of this section, the term “member’s
account” means the excess of the accumulated employee
contributions over the accumulated net benefit payments
at any point in time and the term “member” includes
retirant. This section provides for the payment of the
balance in the member’s account in the event that all
claims to benefits payable to, or on behalf of, a member
expire before his or her member account has been fully
exhausted. The expiration of such rights to benefits would
be on the occasion of the death of the member and any and
all beneficiaries who might have a claim to regular benefit
payments under the plan, for any form of benefit. Without
limitation, this would include the demise of beneficiaries
of survivor annuities and beneficiaries of any lump sum
distributions.

In the event that all claims to benefit payable to, or on
behalf of, a member expire, and the accumulated employee
contributions exceed his or her accumulated net benefit
payments, the balance in the member’s account shall be
paid to the person or persons as the member has nomi-
nated by written designation duly executed and filed with
the board of trustees. If there be no designated person or
persons surviving the member, the excess of the accumu-
lated employee contributions over the accumulated net
benefit, if any, shall be paid to his or her estate. In no case
may the plan retain any amount of the accumulated
employee contributions remaining the member’s account,
but it shall retain interest earned on the same accumulated employee contributions in the instance of a member's or beneficiary's post-retirement death.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-23a. Terminal benefits.

For the purposes of this section, the term “accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a member. This includes, without limitation: (a) Benefits paid to the member as an annuity; (b) any lump sum distributions paid to the member or to any other person on account of the member’s rights to benefits from the plan; (c) survivor benefits paid to any person or persons on account of the member’s rights to benefits from the plan; and (d) any other distributions on account of the member’s rights to benefits from the plan whether they are paid in the nature of a refund of contributions, interest on contributions, lump sum distributions, or annuity type benefits. The amounts counted will be the amounts actually paid without regard to any optional form of any annuity benefit.

For the purposes of this section, the term “accumulated employee contributions” means all money the member has contributed to the plan, whether the form of the contribution was after tax deductions from wages, before tax deductions from wages, direct remittance by the member to repay contributions and interest previously distributed and direct remittance by the member to pay imputed contributions for period which were not subject to contributions but may be counted for benefit purposes under the plan. The term accumulated employee contributions does not include any amount credited under the provisions of the plan as interest on member contributions.
For the purposes of this section, the term "member's account" means the excess of the accumulated employee contributions over the accumulated net benefit payments at any point in time and the term "member" includes each individual who has contributed, or will contribute in the future, to the teachers retirement system, including each retiree. This section provides for the payment of the balance in the member's account to be paid in the manner described herein in the event that all claims to benefits payable to, or on behalf of, a member expire before his or her member account has been fully exhausted. The expiration of such rights to benefits would be on the occasion of the death of the member and any and all beneficiaries who might have a claim to regular benefit payments under the plan, for any form of benefit. Without limitation, this would include the demise of beneficiaries of survivor annuities and beneficiaries of any lump sum distributions.

In the event that all claims to benefits payable to, or on behalf of, a member expire, and the accumulated employee contributions exceed his or her accumulated net benefit payments, the balance in the member's account shall be paid to the person or persons as the member has nominated by written designation duly executed and filed with the board of trustees. If there be no designated person or persons surviving the member, the excess of the accumulated employee contributions over the accumulated net benefit, if any, shall be paid to his or her estate. In no case may the plan retain any amount of the accumulated employee contributions remaining in the member's account, but it shall retain interest earned on the same accumulated employee contributions in the instance of a member's or beneficiary's post-retirement death.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within...approved...this the...5th...
Day of...2000.

[Signature]
Governor