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2001 APR 30 P 4:43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

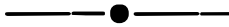
FIRST REGULAR SESSION, 2001



ENROLLED

House Bill No. 2516

(By Delegates Michael, Yeager,
Manuel, Givens and H. White)



Passed April 14, 2001

In Effect Ninety Days from Passage

FILED

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H. B. 2516

(BY DELEGATES MICHAEL, YEAGER,
MANUEL, GIVENS AND H. WHITE)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to repeal section fifteen-b, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section fifteen of said article, all relating generally to conferring on persons eligible for public employees retirement benefits credited service for time spent in the active service of the armed forces of the United States during a period of compulsory military service or a period of armed conflict; providing legislative intent; providing for limitation on years of credited service; providing requirements for eligibility for credited service; allowing suspension of employee's contributions to retirement system and accumulation of credit balance in deposit fund with interest during period of military service; prohibiting duplicate credit for service; specifying powers of board of trustees of retirement system; providing for legislative rules; providing definitions; and providing for compliance with federal law.

Be it enacted by the Legislature of West Virginia:

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Ent. H.B. 2516] 2

That section fifteen-b, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section fifteen of said article be amended and reenacted, all to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-15. Military service credit; qualified military service.

1 (a)(1) The Legislature recognizes the men and women of
2 this state who have served in the armed forces of the United
3 States during times of war, conflict and danger. It is the intent
4 of this section to confer military service credit upon persons
5 who are eligible at any time for public employees retirement
6 benefits for any time served in active duty in the armed forces
7 of the United States when the duty was during any period of
8 compulsory military service or during a period of armed
9 conflict, as defined in this section.

10 (2) In addition to any benefit provided by federal law, any
11 member of the retirement system who has previously served in
12 or enters the active service of the armed forces of the United
13 States during any period of compulsory military service or
14 during a period of armed conflict shall receive credited service
15 for the time spent in the armed forces of the United States, not
16 to exceed five years if the member:

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

19 (B) Substantiates by appropriate documentation or evidence
20 his or her active military service and entry into military service
21 during any period of compulsory military service or during
22 periods of armed conflict.

23 (3) Any member of the retirement system who enters the
24 active service of the armed forces of the United States during

25 any period of compulsory military service or during a period of
26 armed conflict shall receive the credit provided by this section
27 regardless of whether he or she was a public employee at the
28 time of entering the military service.

29 (4) If a member of the public employees retirement system
30 enters the active service of the United States and serves during
31 any period of compulsory military service or during any period
32 of armed conflict, during the period of the armed service and
33 until the member's return to the employ of a participating
34 public employer, the member's contributions to the retirement
35 system is suspended and any credit balance remaining in the
36 member's deposit fund shall be accumulated at regular interest.

37 (5) No member may receive duplicate credit for service for
38 a period of compulsory military service which falls under a
39 period of armed conflict.

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

43 (7) The board is empowered to consider a petition by any
44 member whose tour of duty, in a territory that would reasonably
45 be considered hostile and dangerous, was extended beyond the
46 period in which an armed conflict was officially recognized, if
47 that tour of duty commenced during a period of armed conflict,
48 and the member was assigned to duty stations within the hostile
49 territory throughout the period for which service credit is being
50 sought. The board has the authority to evaluate the facts and
51 circumstances peculiar to the petition, and rule on whether
52 granting service credit for the extended tour of duty is consis-
53 tent with the objectives of this article. In that determination, the
54 board is empowered to grant full credit for the period under
55 petition subject to the limitations otherwise applicable, or to
56 grant credit for any part of the period as the board considers
57 appropriate, or to deny credit altogether.

58 (8) The board of trustees may propose legislative rules for
59 promulgation in accordance with the provisions of article three,
60 chapter twenty-nine-a of this code to administer the provisions
61 of this section.

62 (b) For purposes of this section, the following definitions
63 apply:

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

71 (2) "Spanish-American War" means the period beginning
72 on the twenty-first day of April, one thousand eight hundred
73 ninety-eight, and ending on the fourth day of July, one thousand
74 nine hundred two, and includes the Philippine Insurrection, the
75 Boxer Rebellion, and in the case of a veteran who served with
76 the United States military forces engaged in hostilities in the
77 Moro Province, means the period beginning on the twenty-first
78 day of April, one thousand eight hundred ninety-eight, and
79 ending on the fifteenth day of July, one thousand nine hundred
80 three.

81 (3) "The Mexican border period" means the period begin-
82 ning on the ninth day of May, one thousand nine hundred
83 sixteen, and ending on the fifth day of April, one thousand nine
84 hundred seventeen, in the case of a veteran who during the
85 period served in Mexico, on its borders or in the waters adjacent
86 to it.

87 (4) "World War I" means the period beginning on the sixth
88 day of April, one thousand nine hundred seventeen, and ending
89 on the eleventh day of November, one thousand nine hundred

90 eighteen, and in the case of a veteran who served with the
91 United States military forces in Russia, means the period
92 beginning on the sixth day of April, one thousand nine hundred
93 seventeen, and ending on the first day of April, one thousand
94 nine hundred twenty.

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

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

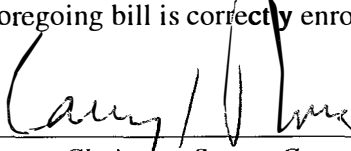
103 (7) “The Vietnam era” means the period beginning on the
104 twenty-eighth day of February, one thousand nine hundred
105 sixty-one, and ending on the seventh day of May, one thousand
106 nine hundred seventy-five, in the case of a veteran who served
107 in the Republic of Vietnam during that period;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

111 (8) “Persian Gulf War” means the period beginning on the
112 second day of August, one thousand nine hundred ninety, and
113 ending on the eleventh day of April, one thousand nine hundred
114 ninety-one.


115 (c) Notwithstanding the preceding provisions of this
116 section, contributions, benefits and service credit with respect
117 to qualified military service shall be provided in accordance
118 with Section 414(u) of the Internal Revenue Code. For purposes
119 of this section, “qualified military service” has the same
120 meaning as in Section 414(u) of the Internal Revenue Code.
121 The retirement board is authorized to determine all questions

122 and make all decisions relating to this section and, pursuant to
123 the authority granted to the retirement board in section one,
124 article ten-d of this chapter, may promulgate rules relating to
125 contributions, benefits and service credit to comply with
126 Section 414(u) of the Internal Revenue Code.

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



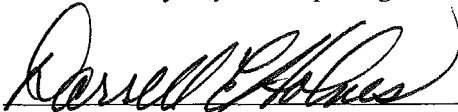
Chairman Senate Committee




Chairman House Committee

Originating in the House.

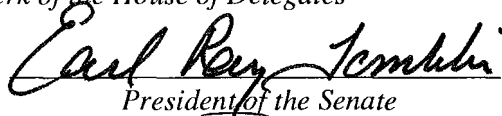
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 27th
day of April, 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date 4/23/01

Time 6:40 pm