WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 711

(By Senator Plymale, et al.)

PASSED April 12, 2001

In Effect from Passage
AN ACT to amend and reenact section seven, article seven-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the rights of members who left employment under the teachers retirement system before the effective date of the teachers' defined contribution plan; and providing an option for such members to irrevocably reenter the teachers retirement system upon reemployment.

Be it enacted by the Legislature of West Virginia:

That section seven, article seven-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.
§18-7B-7. Participation in teachers’ defined contribution retirement system; limiting participation in existing teachers retirement system.

(a) Beginning the first day of July, one thousand nine hundred ninety-one, and except as provided for in this section, the teachers’ defined contribution system shall be the single retirement program for all new employees whose employment commences on or after that date. No additional new employees except as may be provided for in this section may be admitted to the existing teachers retirement system.

(b) Members of the existing teachers retirement system whose employment continues beyond the first day of July, one thousand nine hundred ninety-one, and those whose employment was terminated after the thirtieth day of June, one thousand nine hundred ninety-one, under a reduction in force are not affected by subsection (a) of this section and shall continue to contribute to and participate in the existing teachers retirement system without a change in plan provisions or benefits.

(c) Any person who was previously a member of the teachers retirement system and who left participating employment before the creation of the defined contribution system on the first day of July, one thousand nine hundred ninety-one, and who later returned to participating employment after the effective date of this section has the right to elect to return to the existing teachers retirement system or to elect to participate in the defined contribution system. The election shall be made at the time of his or her reemployment, is irrevocable and shall be made upon forms approved by and filed with the West Virginia consolidated public retirement board.

(d) Any person who was, prior to the first day of July, one thousand nine hundred ninety-one, a member of the existing teachers retirement system who left participating employment before the creation of the teachers’ defined
contribution system on the first day of July, one thousand
nine hundred ninety-one, and who later returned to
participating employment after that date and who was
precluded from returning to the existing teachers retire-
ment system as a result of prior provisions of this section,
may elect, pursuant to the provisions of this section,
readmission to the existing teachers retirement system:

Provided, That persons who are eligible to, and who make
the election to, terminate their participation in the defined
contribution system and to return to participation in the
existing teachers retirement system as provided for in this
section shall make the election, on a form approved by and
filed with the West Virginia consolidated public retirement
board on or before the thirtieth day of June, two thousand
two: Provided, however, That as a condition of the right
of readmission to the existing teachers retirement system,
persons making the election provided for in this section
whose defined contribution account had not, prior to such
election, been divided by a qualified domestic relations
order, shall pay an additional contribution to the existing
teachers retirement system equal to one and one-half
percent of his or her annual gross compensation earned for
each year during which he or she participated in the
defined contribution system and shall consent and agree to
the transfer of his or her total account balance in the
defined contribution system as of the most recent plan
valuation immediately preceding his or her transfer to the
existing teachers retirement system. For persons making
the election provided for in this section whose defined
contribution account had, prior to such election, previ-
ously been divided by a qualified domestic relations order,
the cost to such person to transfer to the existing teachers
retirement system shall be actuarially determined by the
consolidated public retirement board. Upon verification
of that person's eligibility to return to participation in the
existing teachers retirement system and the tender and
transfer of funds as provided for in this subsection,
persons making this election shall receive service credit for
the time the member participated in the defined contribution system as if his or her participation had been in the existing teachers retirement system: Provided further, That the right to terminate participation in the defined contribution system and to resume participation in the existing teachers retirement system as provided for in this section is irrevocable and shall not apply to any person who, while members of the teachers retirement system, voluntarily elected to terminate his or her membership in the teachers retirement system and to become a participant in the defined contribution system pursuant to section eight of this article.

(e) Any employee whose employment with an employer was suspended or terminated while he or she served as an officer with a statewide professional teaching association is eligible for readmission to the existing retirement system in which he or she was a member.

(f) An employee whose employment with an employer or an existing employer is suspended as a result of an approved leave of absence, approved maternity or paternity break in service or any other approved break in service authorized by the board is eligible for readmission to the existing retirement system in which he or she was a member.

(g) In all cases in which a question exists as to the right of an employee to readmission to membership in the existing teachers retirement system, the consolidated public retirement board shall decide the question.

(h) Any individual who is not a "member" or "employee" as defined by section two of this article and any individual who is a leased employee is not eligible to participate in the teachers' defined contribution system. For purposes of this section, a "leased" employee means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or other similar organization. In all cases in
which a question exists as to whether an individual is eligible for membership in this system, the consolidated public retirement board shall decide the question.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill is approved this the 23rd Day of April 2001.

Governor
PRESENTED TO THE
GOVERNOR.
Date: 4/14/01
Time: 5:10 PM