WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 712

(By Senator Plymale, et al.)

PASSED April 14, 2001

In Effect from Passage
AN ACT to amend and reenact section forty-eight, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to West Virginia public employees retirement system; members' reemployment after retirement; and retirement options for holders of elected public office.

Be it enacted by the Legislature of West Virginia:

That section forty-eight, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-48. Reemployment after retirement; options for holder of elected public office.

1 The Legislature finds that a compelling state interest
2 exists in maintaining an actuarially sound retirement
system and that this interest necessitates that certain
limitations be placed upon an individual's ability to retire
from the system and to then later return to state employ-
ment as an employee with a participating public employer
while contemporaneously drawing an annuity from the
system. The Legislature hereby further finds and declares
that the interests of the public are served when persons
having retired from public employment are permitted,
within certain limitations, to render post-retirement
employment in positions of public service, either in elected
or appointed capacities.

(a) For the purposes of this section: (1) "Regularly
employed on a full-time basis" means employment of an
individual by a participating public employer, in a posi-
tion other than as an elected or appointed public official,
which normally requires twelve months per year service
and/or requires at least one thousand forty hours of service
per year in that position; and (2) "temporary full-time
employment or temporary part-time employment" means
employment of an individual on a temporary or provi-
sional basis by a participating public employer, other than
as an elected or appointed public official, in a position
which does not otherwise render the individual as regu-
larly employed.

(b) In the event a retirant becomes regularly employed
on a full-time basis by a participating public employer,
payment of his or her annuity shall be suspended during
the period of his or her reemployment and he or she shall
become a contributing member to the retirement system.
If his or her reemployment is for a period of one year or
longer, his or her annuity shall be recalculated and he or
she shall be granted an increased annuity due to such
additional employment, said annuity to be computed
according to section twenty-two of this article. A retirant
may accept temporary full-time or temporary part-time
employment from a participating employer without
suspending his or her retirement annuity so long as he or
she does not receive annual compensation in excess of ten thousand dollars.

(c) In the event a member retires and is then subsequently elected to a public office or is subsequently appointed to hold an elected public office, he or she has the option, notwithstanding subsection (b) of this section, to either:

(1) Continue to receive payment of his or her annuity while holding such public office, in addition to the salary he or she may be entitled to as such office holder; or

(2) Suspend the payment of his or her annuity and become a contributing member of the retirement system as provided in subsection (b) of this section. Notwithstanding the provisions of this subsection, a member who is participating in the system as an elected public official may not retire from his or her elected position and commence to receive an annuity from the system and then be reappointed to the same position unless and until a continuous six-month period has passed since his or her retirement from the position.

(d) A member who is participating in the system simultaneously as both a regular, full-time employee of a participating public employer and as an elected or appointed member of the legislative body of the state or any political subdivision may, upon meeting the age and service requirements of this article, elect to retire from his or her regular full-time state employment and may commence to receive an annuity from the system without terminating his or her position as a member of the legislative body of the state or political subdivision: Provided, That the retired member shall not, during the term of his or her retirement and continued service as a member of the legislative body of a political subdivision, be eligible to continue his or her participation as a contributing member of the system and shall not continue to accrue any addi-
tional service credit or benefits in the system related to the
continued service.

(e) Notwithstanding the provisions of section twenty-
seven-b of this article, any publicly elected member of the
legislative body of any political subdivision or of the state
Legislature, the clerk of the House of Delegates and the
clerk of the Senate may elect to commence receiving in-
service retirement distributions from this system upon
attaining the age of seventy and one-half years: Provided,
That the member is eligible to retire under the provisions
of section twenty or section twenty-one of this article:
Provided, however, That the member elects to stop ac-
tively contributing to the system while receiving such in-
service distributions.
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 is approved this the 30th Day of April, 2001.

Governor