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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

SENATE BILL NO. 711

(By Senator Plymale, et al)

PASSED April 12, 2001

In Effect from Passage

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Senate Bill No. 711

(BY SENATORS PLYMALE, FANNING, JACKSON, PREZIOSO,
EDGELL, MCCABE AND SPROUSE)

[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.

1 (a) Beginning the first day of July, one thousand nine
2 hundred ninety-one, and except as provided for in this
3 section, the teachers' defined contribution system shall be
4 the single retirement program for all new employees whose
5 employment commences on or after that date. No addi-
6 tional new employees except as may be provided for in this
7 section may be admitted to the existing teachers retire-
8 ment system.

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

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

30 (d) Any person who was, prior to the first day of July,
31 one thousand nine hundred ninety-one, a member of the
32 existing teachers retirement system who left participating
33 employment before the creation of the teachers' defined

34 contribution system on the first day of July, one thousand
35 nine hundred ninety-one, and who later returned to
36 participating employment after that date and who was
37 precluded from returning to the existing teachers retire-
38 ment system as a result of prior provisions of this section,
39 may elect, pursuant to the provisions of this section,
40 readmission to the existing teachers retirement system:
41 *Provided*, That persons who are eligible to, and who make
42 the election to, terminate their participation in the defined
43 contribution system and to return to participation in the
44 existing teachers retirement system as provided for in this
45 section shall make the election, on a form approved by and
46 filed with the West Virginia consolidated public retirement
47 board on or before the thirtieth day of June, two thousand
48 two: *Provided, however*, That as a condition of the right
49 of readmission to the existing teachers retirement system,
50 persons making the election provided for in this section
51 whose defined contribution account had not, prior to such
52 election, been divided by a qualified domestic relations
53 order, shall pay an additional contribution to the existing
54 teachers retirement system equal to one and one-half
55 percent of his or her annual gross compensation earned for
56 each year during which he or she participated in the
57 defined contribution system and shall consent and agree to
58 the transfer of his or her total account balance in the
59 defined contribution system as of the most recent plan
60 valuation immediately preceding his or her transfer to the
61 existing teachers retirement system. For persons making
62 the election provided for in this section whose defined
63 contribution account had, prior to such election, previ-
64 ously been divided by a qualified domestic relations order,
65 the cost to such person to transfer to the existing teachers
66 retirement system shall be actuarially determined by the
67 consolidated public retirement board. Upon verification
68 of that person's eligibility to return to participation in the
69 existing teachers retirement system and the tender and
70 transfer of funds as provided for in this subsection,
71 persons making this election shall receive service credit for

72 the time the member participated in the defined contribu-
73 tion system as if his or her participation had been in the
74 existing teachers retirement system: *Provided further,*
75 That the right to terminate participation in the defined
76 contribution system and to resume participation in the
77 existing teachers retirement system as provided for in this
78 section is irrevocable and shall not apply to any person
79 who, while members of the teachers retirement system,
80 voluntarily elected to terminate his or her membership in
81 the teachers retirement system and to become a partici-
82 pant in the defined contribution system pursuant to
83 section eight of this article.

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

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

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

100 (h) Any individual who is not a "member" or "employee"
101 as defined by section two of this article and any individual
102 who is a leased employee is not eligible to participate in
103 the teachers' defined contribution system. For purposes of
104 this section, a "leased" employee means any individual
105 who performs services as an independent contractor or
106 pursuant to an agreement with an employee leasing
107 organization or other similar organization. In all cases in

108 which a question exists as to whether an individual is
109 eligible for membership in this system, the consolidated
110 public retirement board shall decide the question.

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

[Handwritten Signature]

.....
Chairman Senate Committee

[Handwritten Signature]

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten Signature]

.....
Clerk of the Senate

[Handwritten Signature]

.....
Clerk of the House of Delegates

[Handwritten Signature]

.....
President of the Senate

[Handwritten Signature]

.....
Speaker House of Delegates

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

[Handwritten Signature]

.....
Governor

PRESENTED TO THE
GOVERNOR

Date 4/19/01

Time 5:10 pm