WEST VIRGINIA LEGISLATURE

Regular Session, 2002

ENROLLED

Committee Substitute for

SENATE BILL NO. 608

(By Senator Payne)

PASSED March 9, 2002

In Effect ninety days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 608

(SENATOR PLYMALE, original sponsor)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and twenty-seven-c, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section twenty-seven-d; to amend and reenact section two, article ten-b of said chapter; to amend and reenact section seven, article ten-d of said chapter; to amend and reenact sections two-a and nine-c, article fourteen-d, chapter seven of said code; to further amend said article by adding thereto a new section, designated section nine-d; to amend article two, chapter fifteen of said code by adding thereto a new section, designated section twenty-five-a; to amend and reenact section forty-six of said article; to amend and reenact sections two and six-c, article two-a of said chapter; to
further amend said article by adding thereto a new section, designated section six-d; to amend and reenact sections three and twenty-eight-c, article seven-a, chapter eighteen of said code; to further amend said article by adding thereto a new section, designated section twenty-eight-d; to amend and reenact sections two and thirteen-b, article seven-b of said chapter; to further amend said article by adding thereto a new section, designated section eleven-a; to amend and reenact sections one-a and twelve-c, article nine, chapter fifty-one of said code; and to further amend said article by adding thereto a new section, designated section twelve-d, all relating to amending the definition of internal revenue code for the public retirement systems administered by the consolidated public retirement board to comply with federal tax law amendments; increasing the limitation on compensation for benefits or contributions to qualified state retirement systems in accordance with changes in federal limitations; incorporating changes to the direct rollover rules as required by federal law for the public retirement systems which are qualified under Section 401(a) of the Internal Revenue Code; permitting the use of rollovers from IRAs, 401(a) and 457 plans and trustee to trustee transfers from 401(a) plans to the teachers' defined contribution retirement system to repay cashed-out or withdrawn contributions; and permitting the use of rollovers and trustee to trustee transfers to the teachers retirement system, the public employees retirement system, the deputy sheriff retirement system, the judges' retirement system and the state police retirement system from IRA's, 401(a), 403(b) and 457 plans to purchase service credit or repay contributions previously withdrawn which resulted in forfeited service.

*Be it enacted by the Legislature of West Virginia:*

That sections two and twenty-seven-c, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section twenty-seven-d; that section two, article ten-
b of said chapter be amended and reenacted; that section seven, article ten-d of said chapter be amended and reenacted; that sections two-a and nine-c, article fourteen-d, chapter seven of said code be amended and reenacted; that said article be further amended by adding thereto a new section, designated section nine-d; that article two, chapter fifteen of said code be amended by adding thereto a new section, designated section twenty-five-a; that section forty-six of said article be amended and reenacted; that sections two and six-c, article two-a of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section six-d; that sections three and twenty-eight-c, article seven-a, chapter eighteen of said code be amended and reenacted; that said article be further amended by adding thereto a new section, designated section twenty-eight-d; that sections two and thirteen-b, article seven-b of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eleven-a; that sections one-a and twelve-c, article nine, chapter fifty-one of said code be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section twelve-d, 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.

§5-10-2. Definitions.

1 Unless a different meaning is clearly indicated by the context, the following words and phrases as used in this article, have the following meanings:

4 (1) "State" means the state of West Virginia;

5 (2) "Retirement system" or "system" means the West Virginia public employees retirement system created and established by this article;
(3) "Board of trustees" or "board" means the board of trustees of the West Virginia public employees retirement system;

(4) "Political subdivision" means the state of West Virginia, a county, city or town in the state; a school corporation or corporate unit; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns: Provided, That any mental health agency participating in the public employees retirement system before the first day of July, one thousand nine hundred ninety-seven, is considered a political subdivision solely for the purpose of permitting those employees who are members of the public employees retirement system to remain members and continue to participate in the retirement system at their option after the first day of July, one thousand nine hundred ninety-seven: Provided, however, That the regional community policing institute which participated in the public employees retirement system before the first day of July, two thousand, is considered a political subdivision solely for the purpose of permitting those employees who are members of the public employees retirement system to remain members and continue to participate in the public employees retirement system after the first day of July, two thousand;

(5) "Participating public employer" means the state of West Virginia, any board, commission, department, institution or spending unit, and includes any agency created by rule of the supreme court of appeals having full-time employees, which for the purposes of this article is considered a department of state government; and any political subdivision in the state which has elected to cover
its employees, as defined in this article, under the West Virginia public employees retirement system;

(6) "Employee" means any person who serves regularly as an officer or employee, full time, on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, in whole or in part, by any political subdivision, or an officer or employee whose compensation is calculated on a daily basis and paid monthly or on completion of assignment, including technicians and other personnel employed by the West Virginia national guard whose compensation, in whole or in part, is paid by the federal government: Provided, That members of the Legislature, the clerk of the House of Delegates, the clerk of the Senate, employees of the Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who have been or are employed during regular sessions or during the interim between regular sessions in seven consecutive calendar years, as certified by the clerk of the house in which the employee served, members of the legislative body of any political subdivision and judges of the state court of claims are considered to be employees, anything contained in this article to the contrary notwithstanding. In any case of doubt as to who is an employee within the meaning of this article, the board of trustees shall decide the question;

(7) "Member" means any person who is included in the membership of the retirement system;

(8) "Retirant" means any member who retires with an annuity payable by the retirement system;

(9) "Beneficiary" means any person, except a retirant, who is entitled to, or will be entitled to, an annuity or other benefit payable by the retirement system;
(10) "Service" means personal service rendered to a participating public employer by an employee, as defined in this article, of a participating public employer;

(11) "Prior service" means service rendered prior to the first day of July, one thousand nine hundred sixty-one, to the extent credited a member as provided in this article;

(12) "Contributing service" means service rendered by a member within this state and for which the member made contributions to a public retirement system account of this state, to the extent credited him or her as provided by this article. This revised definition is retroactive and applicable to the first day of April, one thousand nine hundred eighty-eight, and thereafter;

(13) "Credited service" means the sum of a member's prior service credit and contributing service credit standing to his or her credit as provided in this article;

(14) "Limited credited service" means service by employees of the West Virginia educational broadcasting authority, in the employment of West Virginia university, during a period when the employee made contributions to another retirement system, as required by West Virginia university, and did not make contributions to the public employees retirement system: Provided, That while limited credited service can be used for the formula set forth in subsection (e), section twenty-one of this article, it may not be used to increase benefits calculated under section twenty-two of this article;

(15) "Compensation" means the remuneration paid a member by a participating public employer for personal services rendered by him or her to the participating public employer. In the event a member's remuneration is not all paid in money, his or her participating public employer shall fix the value of the portion of his or her remuneration which is not paid in money;

(16) "Final average salary" means either:
(A) The average of the highest annual compensation received by a member (including a member of the Legislature who participates in the retirement system in the year one thousand nine hundred seventy-one or thereafter) during any period of three consecutive years of his or her credited service contained within his or her ten years of credited service immediately preceding the date his or her employment with a participating public employer last terminated; or

(B) If he or she has less than five years of credited service, the average of the annual rate of compensation received by him or her during his or her total years of credited service; and in determining the annual compensation, under either paragraph (A) or (B) of this subdivision, of a member of the Legislature who participates in the retirement system as a member of the Legislature in the year one thousand nine hundred seventy-one or in any year thereafter, his or her actual legislative compensation (the total of all compensation paid under sections two, three, four and five, article two-a, chapter four of this code) in the year one thousand nine hundred seventy-one or in any year thereafter, plus any other compensation he or she receives in any year from any other participating public employer including the state of West Virginia, without any multiple in excess of one times his or her actual legislative compensation and other compensation, shall be used: Provided, That “final average salary” for any former member of the Legislature or for any member of the Legislature in the year one thousand nine hundred seventy-one who, in either event, was a member of the Legislature on the thirtieth day of November, one thousand nine hundred sixty-eight, or the thirtieth day of November, one thousand nine hundred sixty-nine, or the thirtieth day of November, one thousand nine hundred seventy, or on the thirtieth day of November in any one or more of those three years and who participated in the retirement system as a member of the Legislature in any one or more of those years means: (i) Either (notwithstanding-
ing the provisions of this subdivision preceding this proviso) one thousand five hundred dollars multiplied by eight, plus the highest other compensation the former member or member received in any one of the three years from any other participating public employer including the state of West Virginia; or (ii) “final average salary” determined in accordance with paragraph (A) or (B) of this subdivision, whichever computation produces the higher final average salary (and in determining the annual compensation under (ii) of this proviso, the legislative compensation of the former member shall be computed on the basis of one thousand five hundred dollars multiplied by eight, and the legislative compensation of the member shall be computed on the basis set forth in the provisions of this subdivision immediately preceding this proviso or on the basis of one thousand five hundred dollars multiplied by eight, whichever computation as to the member produces the higher annual compensation);

(17) “Accumulated contributions” means the sum of all amounts deducted from the compensations of a member and credited to his or her individual account in the members’ deposit fund, together with regular interest on the contributions;

(18) “Regular interest” means the rate or rates of interest per annum, compounded annually, as the board of trustees adopts from time to time;

(19) “Annuity” means an annual amount payable by the retirement system throughout the life of a person. All annuities shall be paid in equal monthly installments, using the upper cent for any fraction of a cent;

(20) “Annuity reserve” means the present value of all payments to be made to a retirant or beneficiary of a retirant on account of any annuity, computed upon the basis of mortality and other tables of experience, and regular interest, adopted by the board of trustees from time to time;
(21) "Retirement" means a member's withdrawal from the employ of a participating public employer with an annuity payable by the retirement system;

(22) "Actuarial equivalent" means a benefit of equal value computed upon the basis of a mortality table and regular interest adopted by the board of trustees from time to time;

(23) "Retroactive service" means: (1) Service an employee was entitled to, but which the employer has not withheld or paid for; or (2) that service from the first day of July, one thousand nine hundred sixty-one, and the date an employer decides to become a participating member of the public employees retirement system; or (3) service prior to the first day of July, one thousand nine hundred sixty-one, for which the employee is not entitled to prior service at no cost in accordance with 162 CSR 5.16;

(24) "Required beginning date" means the first day of April of the calendar year following the later of: (A) The calendar year in which the member attains age seventy and one-half; or (B) the calendar year in which the member ceases providing service covered under this system to a participating employer;

(25) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended; and

(26) "Plan year" means the same as referenced in section forty-two of this article.

§5-10-27c. Direct rollovers.

(a) This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's election under this system, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribu-
tion that is equal to at least five hundred dollars paid
directly to an eligible retirement plan specified by the
distributee in a direct rollover. For purposes of this
section, the following definitions apply:

(1) "Eligible rollover distribution" means any distribu-
tion of all or any portion of the balance to the credit of the
distributee, except that an eligible rollover distribution
does not include any of the following: (i) Any distribution
that is one of a series of substantially equal periodic
payments not less frequently than annually made for the
life or life expectancy of the distributee or the joint lives
or the joint life expectancies of the distributee and the
distributee's designated beneficiary, or for a specified
period of ten years or more; (ii) any distribution to the
extent the distribution is required under Section 401(a)(9)
of the Internal Revenue Code; (iii) the portion of any
distribution that is not includable in gross income deter-
mined without regard to the exclusion for net unrealized
appreciation with respect to employer securities; (iv) any
hardship distribution described in Section
401(k)(2)(B)(i)(iv) of the Internal Revenue Code; and (v)
any other distribution or distributions reasonably ex-
pected to total less than two hundred dollars during a
year. For distributions after the thirty-first day of Decem-
ber, two thousand one, a portion of a distribution shall not
fail to be an eligible rollover distribution merely because
the portion consists of after-tax employee contributions
which are not includable in gross income. However, this
portion may be paid only to an individual retirement
account or annuity described in Section 408(a) or (b) of the
Internal Revenue Code, or to a qualified defined contribu-
tion plan described in Section 401(a) or 403(a) of the
Internal Revenue Code that agrees to separately account
for amounts transferred, including separately accounting
for the portion of the distribution which is includable in
gross income and the portion of the distribution which is
not includable.
(2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code or a qualified plan described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution: Provided, That in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. For distributions after the thirty-first day of December, two thousand one, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into the plan from this system.

(3) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code with respect to governmental plans, are distributees with regard to the interest of the spouse or former spouse.

(4) "Direct rollover" means a payment by the retirement system to an eligible retirement plan.

(b) Nothing in this section may be construed as permitting rollovers into this system or any other system administered by the retirement board.

§5-10-27d. Rollovers and transfers to purchase service credit or repay withdrawn contributions.
(a) This section applies to rollovers and transfers as specified in this section made on or after the first day of January, two thousand two. Notwithstanding any provision of this article to the contrary that would otherwise prohibit or limit rollovers and plan transfers to this system, the retirement system shall accept the following rollovers and plan transfers on behalf of a member solely for the purpose of purchasing permissive service credit, in whole or in part, as otherwise provided in this article or for the repayment of withdrawn or refunded contributions, in whole or in part, with respect to a previous forfeiture of service credit as otherwise provided in this article: (i) One or more rollovers within the meaning of Section 408(d)(3) of the Internal Revenue Code from an individual retirement account described in Section 408(a) of the Internal Revenue Code or from an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; (ii) one or more rollovers described in Section 402(c) of the Internal Revenue Code from a retirement plan that is qualified under Section 401(a) of the Internal Revenue Code or from a plan described in Section 403(b) of the Internal Revenue Code; (iii) one or more rollovers described in Section 457(e)(16) of the Internal Revenue Code from a governmental plan described in Section 457 of the Internal Revenue Code; or (iv) direct trustee-to-trustee transfers or rollovers from a plan that is qualified under Section 401(a) of the Internal Revenue Code, from a plan described in Section 403(b) of the Internal Revenue Code or from a governmental plan described in Section 457 of the Internal Revenue Code: Provided, That any rollovers or transfers pursuant to this section shall be accepted by the system only if made in cash or other asset permitted by the board and only in accordance with policies, practices and procedures established by the board from time to time. For purposes of this section, the following definitions apply:

(1) "Permissive service credit" means service credit which is permitted to be purchased under the terms of the
retirement system by voluntary contributions in an amount which does not exceed the amount necessary to fund the benefit attributable to the period of service for which the service credit is being purchased, all as defined in Section 415(n)(3)(A) of the Internal Revenue Code.

(2) "Repayment of withdrawn or refunded contributions" means the payment into the retirement system of the funds required pursuant to this article for the reinstatement of service credit previously forfeited on account of any refund or withdrawal of contributions permitted in this article, as set forth in Section 415(k)(3) of the Internal Revenue Code.

(b) Nothing in this section shall be construed as permitting rollovers or transfers into this system or any other system administered by the retirement board other than as specified in this section and no rollover or transfer shall be accepted into the system in an amount greater than the amount required for the purchase of permissive service credit or repayment of withdrawn or refunded contributions.

(c) Nothing in this section shall be construed as permitting the purchase of service credit or repayment of withdrawn or refunded contributions except as otherwise permitted in this article.

ARTICLE 10B. GOVERNMENT EMPLOYEES DEFERRED COMPENSATION PLANS.

§5-10B-2. Definitions.

1 Unless the context in which used clearly indicates a different meaning, as used in this article:

(a) "Board" means the consolidated public retirement board provided for in article ten of this chapter.

(b) "Deferredcompensationplan" means a trust whereby the state of West Virginia, as the public employer, or a public employer agrees with an employee for the voluntary
reduction in employee compensation for the payment of benefits by the state employer or the public employer to the employee at a later date pursuant to this article and the federal laws and regulations relating to eligible state deferred compensation plans as described in Section 457 of the Internal Revenue Code.

(c) "Employee" means any person, whether appointed, elected, or under contract, providing services for the state employer or public employer for which compensation is paid.

(d) "Public employer" means counties, municipalities or political subdivisions of those governmental bodies which meet the definition of "state" as described in Internal Revenue Code Section 457 (d)(1), but which do not meet the definition of "state employer" as used in this article.

(e) "State employer" means the state of West Virginia and any state agency or instrumentality of the state.

(f) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.

§5-10D-7. Compensation limitations; effective dates.

(a) Effective for plan years beginning after the thirty-first day of December, one thousand nine hundred ninety-five, and prior to the first day of January, two thousand two, the annual compensation of a participant taken into account in determining benefits or contributions under any of the public retirement plans administered by the board and which are qualified plans under Section 401(a) of the Internal Revenue Code may not exceed one hundred fifty thousand dollars, as indexed in accordance with the provisions of Section 401(a)(17) of the Internal Revenue Code. Effective for plan years beginning on or after the first day of January, two thousand two, the annual compensation of each participant taken into
account in determining allocations for any plan year beginning on or after the first day of January, two thousand two, shall not exceed two hundred thousand dollars as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. In determining benefit accruals in plan years beginning after the thirty-first day of December, two thousand one, the annual compensation limit for determination periods beginning before the first day of January, two thousand two, shall be two hundred thousand dollars. Annual compensation means compensation during the plan year or any other consecutive twelve-month period over which compensation is otherwise determined (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within that calendar year. This provision applies notwithstanding any other provision to the contrary in this code and notwithstanding any provisions of any legislative rule.

(b) In applying the limitations of subsection (a) of this section, the consolidated public retirement board may: (1) adopt policies or procedures that may be necessary or appropriate in applying the compensation limitations of Section 401(a)(17) to participants, including, without limitation, the adoption and application of any transitional rules to implement the compensation limitations; and (2) to take any actions that may at any time be required by the internal revenue service regarding compliance with the requirements of Section 401(a)(17), including, without limitation, distributions, credits, set-asides or other adjustments.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM.


Any term used in this article has the same meaning as when used in a comparable context in the laws of the
§7-14D-9c. Direct rollovers.

(a) This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee’s election under this plan, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions apply:

(1) “Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any of the following: (i) Any distribution that is one of a series of substantially equal periodic payments not less frequently than annually made for the life or life expectancy of the distributee or the joint lives or the joint life expectancies of the distributee and the distributee’s designated beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent the distribution is required under Section 401(a)(9) of the Internal Revenue Code; (iii) the portion of any distribution that is not includable in gross income determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; (iv) any hardship distribution described in Section 401(k)(2)(B)(i)(iv) of the Internal Revenue Code; and (v) any other distribution or distributions reasonably expected to total less than two hundred dollars during a year. For distributions after the thirty-first day of December, two thousand one, a portion of a distribution shall not
fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, this portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

(2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code or a qualified plan described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution: Provided, That in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. For distributions after the thirty-first day of December, two thousand one, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into the plan from this system.

(3) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section...
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414(p) of the Internal Revenue Code with respect to governmental plans, are distributees with regard to the interest of the spouse or former spouse.

(4) “Direct rollover” means a payment by the plan to the eligible retirement plan.

(b) Nothing in this section shall be construed as permitting rollovers to this plan or any other retirement system administered by the board.

§7-14D-9d. Rollovers and transfers to purchase service credit or repay withdrawn contributions.

(a) This section applies to rollovers and transfers as specified in this section made on or after the first day of January, two thousand two. Notwithstanding any provision of this article to the contrary that would otherwise prohibit or limit rollovers and plan transfers to this system, the retirement system shall accept the following rollovers and plan transfers on behalf of a member solely for the purpose of purchasing permissive service credit, in whole or in part, as otherwise provided in this article or for the repayment of withdrawn or refunded contributions, in whole and in part, with respect to a previous forfeiture of service credit as otherwise provided in this article: (i) One or more rollovers within the meaning of Section 408(d)(3) of the Internal Revenue Code from an individual retirement account described in Section 408(a) of the Internal Revenue Code or from an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; (ii) one or more rollovers described in Section 402(c) of the Internal Revenue Code from a retirement plan that is qualified under Section 401(a) of the Internal Revenue Code or from a plan described in Section 403(b) of the Internal Revenue Code; (iii) one or more rollovers described in Section 457(e)(16) of the Internal Revenue Code from a governmental plan described in Section 457 of the Internal Revenue Code; or (iv) direct trustee-to-trustee transfers or rollovers from a plan that is qualified...
under Section 401(a) of the Internal Revenue Code, from a plan described in Section 403(b) of the Internal Revenue Code or from a governmental plan described in Section 457 of the Internal Revenue Code: Provided, That any rollovers or transfers pursuant to this section shall be accepted by the system only if made in cash or other asset permitted by the board and only in accordance with such policies, practices and procedures established by the board from time to time. For purposes of this section, the following definitions apply:

(1) "Permissive service credit" means service credit which is permitted to be purchased under the terms of the retirement system by voluntary contributions in an amount which does not exceed the amount necessary to fund the benefit attributable to the period of service for which the service credit is being purchased, all as defined in Section 415(n)(3)(A) of the Internal Revenue Code.

(2) "Repayment of withdrawn or refunded contributions" means the payment into the retirement system of the funds required pursuant to this article for the reinstatement of service credit previously forfeited on account of any refund or withdrawal of contributions permitted in this article, as set forth in Section 415(k)(3) of the Internal Revenue Code.

(b) Nothing in this section shall be construed as permitting rollovers or transfers into this system or any other system administered by the retirement board other than as specified in this section and no rollover or transfer shall be accepted into the system in an amount greater than the amount required for the purchase of permissive service credit or repayment of withdrawn or refunded contributions.

(c) Nothing in this section shall be construed as permitting the purchase of service credit or repayment of withdrawn or refunded contributions except as otherwise permitted in this article.
CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.


Any term used in this article relating to the death, disability and retirement fund shall have the same meaning as when used in a comparable context of the laws of the United States, unless a different meaning as clearly required. Any reference in this article to the Internal Revenue Code means the Internal Revenue Code, as it has been amended.

§15-2-46. Direct rollovers.

(a) This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's election under this fund, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions apply:

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any of the following: (i) Any distribution that is one of a series of substantially equal periodic payments not less frequently than annually made for the life or life expectancy of the distributee or the joint lives of or the joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent the distribution is required under Section 401(a)(9) of the
Internal Revenue Code; (iii) the portion of any distribution that is not includable in gross income determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; (iv) any hardship distribution described in Section 401(k)(2)(B)(i)(iv) \(\text{USCS } 401(k)(2)(B)(i)(iv)\) of the Internal Revenue Code; and (v) any other distribution or distributions that are reasonably expected to total less than two hundred dollars during a year. For distributions after the thirty-first day of December, two thousand one, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, this portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

(2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified plan described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution: Provided, That in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. For distributions after the thirty-first day of December, two thousand one, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained
by a state, political subdivision of a state, or any agency or
instrumentality of a state or political subdivision of a state
and which agrees to separately account for amounts
transferred into the plan from this system.

(3) "Distributee" means a member. In addition, the
member's surviving spouse and the member's spouse or
former spouse who is the alternate payee under a qualified
domestic relations order, as defined in Section 414(p) of
the Internal Revenue Code with respect to governmental
plans, are distributees with regard to the interest of the
spouse or former spouse.

(4) "Direct rollover" means a payment by the system to
the eligible retirement plan.

(b) Nothing in this section may be construed as permit-
ting rollovers into this fund or any other retirement system
administered by the board.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.


1 As used in this article, unless the context clearly requires
2 a different meaning:
3
4 (1) "Active military duty" means full-time active duty
5 with the armed forces of the United States, namely, the
6 United States air force, army, coast guard, marines or
7 navy; and service with the national guard or reserve
8 military forces of any of the armed forces when the
9 member has been called to active full-time duty and has
10 received no compensation during the period of that duty
11 from any person other than the armed forces.
12
13 (2) "Base salary" means compensation paid to a member
14 without regard to any overtime pay.
15
16 (3) "Board" means the consolidated public retirement
17 board created pursuant to article ten-d, chapter five of this
18 code.
(4) "Division" means the division of public safety.

(5) "Final average salary" means the average of the highest annual compensation received for employment with the division, including compensation paid for overtime service, received by the member during any five years within the member's last ten years of service.

(6) "Fund" means the West Virginia state police retirement fund created pursuant to section four of this article.

(7) "Member" or "employee" means a person regularly employed in the service of the division of public safety after the effective date of this article.

(8) "Salary" means the compensation of a member, excluding any overtime payments.

(9) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

(10) "Plan year" means the twelve-month period commencing on the first day of July of any designated year and ending the following thirtieth day of June.

(11) "Required beginning date" means the first day of April of the calendar year following the later of: (a) The calendar year in which the member attains age seventy and one-half; or (b) the calendar year in which he or she retires or otherwise separates from service with the department.

(12) "Retirement system" or "system" means the West Virginia state police retirement system created and established by this article.

§15-2A-6c. Direct rollovers.

(a) This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's
election under this system, a distributee may elect, at the
time and in the manner prescribed by the board, to have
any portion of an eligible rollover distribution that is
equal to at least five hundred dollars paid directly to an
eligible retirement plan specified by the distributee in a
direct rollover. For purposes of this section, the following
definitions apply:

(1) "Eligible rollover distribution" means any distribu-
tion of all or any portion of the balance to the credit of the
distributee, except that an eligible rollover distribution
does not include any of the following: (i) Any distribution
that is one of a series of substantially equal periodic
payments not less frequently than annually made for the
life or life expectancy of the distributee or the joint lives
or the joint life expectancies of the distributee and the
distributee's designated beneficiary, or for a specified
period of ten years or more; (ii) any distribution to the
extent such distribution is required under Section
401(a)(9) of the Internal Revenue Code; (iii) the portion of
any distribution that is not includable in gross income
determined without regard to the exclusion for net unreal-
ized appreciation with respect to employer securities; (iv)
any hardship distribution described in Section
401(k)(2)(B)(i)(iv) of the Internal Revenue Code; and (v)
any other distribution or distributions expected to total
less than two hundred dollars during a year. For distribu-
tions after the thirty-first day of December, two thousand
one, a portion of a distribution shall not fail to be an
eligible rollover distribution merely because the portion
consists of after-tax employee contributions which are not
includable in gross income. However, this portion may be
paid only to an individual retirement account or annuity
described in Section 408(a) or (b) of the Internal Revenue
Code, or to a qualified defined contribution plan described
in Section 401(a) or 403(a) of the Internal Revenue Code
that agrees to separately account for amounts transferred,
including separately accounting for the portion of the
distribution which is includable in gross income and the portion of the distribution which is not includable.

(2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code or a qualified plan described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution: Provided, That in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. For distributions after the thirty-first day of December, two thousand one, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into the plan from this system.

(3) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code with respect to governmental plans, are distributees with regard to the interest of the spouse or former spouse.

(4) "Direct rollover" means a payment by the system to the eligible retirement plan.

(b) Nothing in this section may be construed as permitting rollovers into this system or any other retirement system administered by the board.
§15-2A-6d. Rollovers and transfers to purchase service credit or repay withdrawn contributions.

(a) This section applies to rollovers and transfers as specified in this section made on or after the first day of January, two thousand two. Notwithstanding any provision of this article to the contrary that would otherwise prohibit or limit rollovers and plan transfers to this system, the retirement system shall accept the following rollovers and plan transfers on behalf of a member solely for the purpose of purchasing permissive service credit, in whole and in part, as otherwise provided in this article or for the repayment of withdrawn or refunded contributions, in whole and in part, with respect to a previous forfeiture of service credit as otherwise provided in this article:

(i) One or more rollovers within the meaning of Section 408(d)(3) of the Internal Revenue Code from an individual retirement account described in Section 408(a) of the Internal Revenue Code or from an individual retirement annuity described in Section 408(b) of the Internal Revenue Code;

(ii) one or more rollovers described in Section 402(c) of the Internal Revenue Code from a retirement plan that is qualified under Section 401(a) of the Internal Revenue Code or from a plan described in Section 403(b) of the Internal Revenue Code;

(iii) one or more rollovers described in Section 457(e)(16) of the Internal Revenue Code from a governmental plan described in Section 457 of the Internal Revenue Code;

(iv) direct trustee-to-trustee transfers or rollovers from a plan that is qualified under Section 401(a) of the Internal Revenue Code, from a plan described in Section 403(b) of the Internal Revenue Code or from a governmental plan described in Section 457 of the Internal Revenue Code: Provided, That any rollovers or transfers pursuant to this section shall be accepted by the system only if made in cash or other asset permitted by the board and only in accordance with the policies, practices and procedures established by the board from time to time. For purposes of this section, the following definitions apply:
(1) "Permissive service credit" means service credit which is permitted to be purchased under the terms of the retirement system by voluntary contributions in an amount which does not exceed the amount necessary to fund the benefit attributable to the period of service for which the service credit is being purchased, all as defined in Section 415(n)(3)(A) of the Internal Revenue Code.

(2) "Repayment of withdrawn or refunded contributions" means the payment into the retirement system of the funds required pursuant to this article for the reinstatement of service credit previously forfeited on account of any refund or withdrawal of contributions permitted in this article, as set forth in Section 415(k)(3) of the Internal Revenue Code.

(b) Nothing in this section shall be construed as permitting rollovers or transfers into this system or any other system administered by the retirement board other than as specified in this section and no rollover or transfer shall be accepted into the system in an amount greater than the amount required for the purchase of permissive service credit or repayment of withdrawn or refunded contributions.

(c) Nothing in this section shall be construed as permitting the purchase of service credit or repayment of withdrawn or refunded contributions except as otherwise permitted in this article.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.


"Teacher member" means the following persons, if regularly employed for full-time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) principals; (c) public school librarians; (d) superintendents of schools and assistant county
superintendents of schools; (e) any county school attendance director holding a West Virginia teacher's certificate; (f) the executive secretary of the retirement board; (g) members of the research, extension, administrative or library staffs of the public schools; (h) the state superintendent of schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (i) employees of the state board of education who are performing services of an educational nature; (j) any person employed in a nonteaching capacity by the state board of education, the West Virginia board of regents [abolished], any county board of education, the state department of education or the teachers retirement board, if that person was formerly employed as a teacher in the public schools; (k) all classroom teachers, principals and educational administrators in schools under the supervision of the division of corrections, the division of health or the division of human services; and (l) employees of the state board of school finance, if that person was formerly employed as a teacher in the public schools.

"Nonteaching member" means any person, except a teacher member, who is regularly employed for full-time service by: (a) Any county board of education; (b) the state board of education; (c) the West Virginia board of regents [abolished]; or (d) the teachers retirement board.

"Members of the administrative staff of the public schools" means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

"Members of the extension staff of the public schools" means every agricultural agent, boys' and girls' club agent and every member of the agricultural extension staff whose work is not primarily stenographic, clerical or secretarial.

"Retirement system" means the state teachers retirement system provided for in this article.
“Present teacher” means any person who was a teacher within the thirty-five years beginning the first day of July, one thousand nine hundred thirty-four, and whose membership in the retirement system is currently active.

“New entrant” means a teacher who is not a present teacher.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay. “Employment term” means employment for at least ten months, a month being defined as twenty employment days.

“Present member” means a present teacher who is a member of the retirement system.

“Total service” means all service as a teacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

“Prior service” means all service as a teacher completed prior to the first day of July, one thousand nine hundred forty-one, and all service of a present member who was employed as a teacher, and did not contribute to a retirement account because he or she was legally ineligible for membership during the service.

“Pick-up service” means service that a member was entitled to, but which the employer has not withheld or paid for.

“Average final salary” means the average of the five highest fiscal year salaries earned as a member within the last fifteen fiscal years of total service credit, including military service as provided in this article, or if total service is less than fifteen years, the average annual salary for the period on which contributions were made.
"Accumulated contributions" means all deposits and all deductions from the earnable compensation of a contributor minus the total of all supplemental fees deducted from his or her compensation.

"Regular interest" means interest at four percent compounded annually, or a higher earnable rate if set forth in the formula established in legislative rules, series seven of the consolidated public retirement board.

"Refund interest" means interest compounded, according to the formula established in legislative rules, series seven of the consolidated public retirement board.

"Employer" means the agency of and within the state which has employed or employs a member.

"Contributor" means a member of the retirement system who has an account in the teachers accumulation fund.

"Beneficiary" means the recipient of annuity payments made under the retirement system.

"Refund beneficiary" means the estate of a deceased contributor or a person he or she has nominated as beneficiary of his or her contributions by written designation duly executed and filed with the retirement board.

"Earnable compensation" means the full compensation actually received by members for service as teachers whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions. Allowances from employers for maintenance of members shall be considered a part of earnable compensation for those members whose allowances were approved by the teachers retirement board and contributions to the teachers retirement system were made, in accordance therewith, on or before the first day of July, one thousand nine hundred eighty.

"Annuities" means the annual retirement payments for life granted beneficiaries in accordance with this article.
"Member" means a member of the retirement system.

"Public schools" means all publicly supported schools, including normal schools, colleges and universities in this state.

"Deposit" means a voluntary payment to his or her account by a member.

"Plan year" means the twelve-month period commencing on the first day of July and ending the following thirtieth day of June of any designated year.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

"Required beginning date" means the first day of April of the calendar year following the later of: (a) The calendar year in which the member attains age seventy and one-half; or (b) the calendar year in which the member retires or ceases covered employment under the system.

The masculine gender shall be construed so as to include the feminine.

Age in excess of seventy years shall be considered to be seventy years.

§18-7A-28c. Direct rollovers.

(a) This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's election under this system, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions apply:
(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any of the following: (i) Any distribution that is one of a series of substantially equal periodic payments not less frequently than annually made for the life or life expectancy of the distributee or the joint lives or the joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; (iii) the portion of any distribution that is not includable in gross income determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; (iv) any hardship distribution described in Section 401(k)(2)(B)(i)(iv) of the Internal Revenue Code; and (v) any other distribution reasonably or distributions expected to total less than two hundred dollars during a year. For distributions after the thirty-first day of December, two thousand one, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, this portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

(2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal
Revenue Code, or a qualified plan described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution: Provided, That in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. For distributions after the thirty-first day of December, two thousand one, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into the plan from this system.

(3) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, as applicable to governmental plans, are distributees with regard to the interest of the spouse or former spouse.

(4) "Direct rollover" means a payment by the system to the eligible retirement plan.

(b) Nothing in this section may be construed as permitting rollovers into this system or any other retirement system administered by the board.

§18-7A-28d. Rollovers and transfers to purchase service credit or repay withdrawn contributions.

(a) This section applies to rollovers and transfers as specified in this section made on or after the first day of January, two thousand two. Notwithstanding any provision of this article to the contrary that would otherwise prohibit or limit rollovers and plan transfers to this
system, the retirement system shall accept the following
rollovers and plan transfers on behalf of a member solely
for the purpose of purchasing permissive service credit, in
whole or in part, as otherwise provided in this article or
for the repayment of withdrawn or refunded contributions,
in whole or in part, with respect to a previous forfeiture of
service credit as otherwise provided in this article: (i) One
or more rollovers within the meaning of Section 408(d)(3)
of the Internal Revenue Code from an individual retire-
ment account described in Section 408(a) of the Internal
Revenue Code or from an individual retirement annuity
described in Section 408(b) of the Internal Revenue Code;
(ii) one or more rollovers described in Section 402(c) of the
Internal Revenue Code from a retirement plan that is
qualified under Section 401(a) of the Internal Revenue
Code or from a plan described in Section 403(b) of the
Internal Revenue Code; (iii) one or more rollovers de-
scribed in Section 457(e)(16) of the Internal Revenue Code
from a governmental plan described in Section 457 of the
Internal Revenue Code; or (iv) direct trustee-to-trustee
transfers or rollovers from a plan that is qualified under
Section 401(a) of the Internal Revenue Code, from a plan
described in Section 403(b) of the Internal Revenue Code
or from a governmental plan described in Section 457 of
the Internal Revenue Code: Provided, That any rollovers or
transfers pursuant to this section shall be accepted by the
system only if made in cash or other asset permitted by the
board and only in accordance with the policies, practices
and procedures established by the board from time to time.
For purposes of this section, the following definitions
apply:

(1) "Permissive service credit" means service credit
which is permitted to be purchased under the terms of the
retirement system by voluntary contributions in an
amount which does not exceed the amount necessary to
fund the benefit attributable to the period of service for
which the service credit is being purchased, all as defined
in Section 415(n)(3)(A) of the Internal Revenue Code.
(2) "Repayment of withdrawn or refunded contributions" means the payment into the retirement system of the funds required pursuant to this article for the reinstatement of service credit previously forfeited on account of any refund or withdrawal of contributions permitted in this article, as set forth in Section 415(k)(3) of the Internal Revenue Code.

(b) Nothing in this section shall be construed as permitting rollovers or transfers into this system or any other system administered by the retirement board other than as specified in this section and no rollover or transfer shall be accepted into the system in an amount greater than the amount required for the purchase of permissive service credit or repayment of withdrawn or refunded contributions.

(c) Nothing in this section shall be construed as permitting the purchase of service credit or repayment of withdrawn or refunded contributions except as otherwise permitted in this article.

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-2. Definitions.

1 As used in this article, unless the context clearly requires a different meaning:

3 (1) "Defined contribution system" or "system" means the teachers' defined contribution retirement system created and established by this article;

6 (2) "Existing retirement system" means the state teachers retirement system established in article seven-a of this chapter;

9 (3) "Existing employer" means any employer who employed or employs a member of the existing retirement system;
(4) "Consolidated board" or "board" means the consolidated public retirement board created and established pursuant to article ten-d, chapter five of this code;

(5) "Member" or "employee" means the following persons, if regularly employed for full-time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) principals; (c) public school librarians; (d) superintendents of schools and assistant county superintendents of schools; (e) any county school attendance director holding a West Virginia teacher's certificate; (f) the executive secretary of the retirement board; (g) members of the research, extension, administrative or library staffs of the public schools; (h) the state superintendent of schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (i) employees of the state board of education who are performing services of an educational nature; (j) any person employed in a nonteaching capacity by the state board of education, any county board of education, the state department of education or the teachers retirement board, if that person was formerly employed as a teacher in the public schools; (k) all classroom teachers, principals and educational administrators in schools under the supervision of the department of corrections and the department of health and human resources; (l) any person who is regularly employed for full-time service by any county board of education, the state board of education or the teachers retirement board; and (m) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries;

(6) "Regularly employed for full-time service" means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay;
(7) "Year of employment service" means employment for at least ten months, a month being defined as twenty employment days. Provided, That no more than one year of service may be accumulated in any twelve-month period;

(8) "Employer" means the agency of and within the state which has employed or employs a member;

(9) "Compensation" means the full compensation actually received by members for service whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions;

(10) "Public schools" means all publicly supported schools, including normal schools, colleges and universities in this state;

(11) "Member contribution" means an amount reduced from the employee's regular pay periods, and deposited into the member's individual annuity account within the defined contribution retirement system;

(12) "Employer contribution" means an amount deposited into the member's individual annuity account on a periodic basis coinciding with the employee's regular pay period by an employer from its own funds;

(13) "Annuity account" or "annuity" means an account established for each member to record the deposit of member contributions and employer contributions and interest, dividends or other accumulations credited on behalf of the member;

(14) "Retirement" means a member's withdrawal from the active employment of a participating employer and completion of all conditions precedent to retirement;

(15) "Permanent, total disability" means a mental or physical incapacity requiring the absence from employment service for at least six months. Provided, That the
incapacity is shown by an examination by a physician or
physicians selected by the board;

(16) "Plan year" means the twelve-month period commencing on the first day of July of any designated year and ending on the following thirtieth day of June;

(17) "Required beginning date" means the first day of April of the calendar year following the later of: (a) The calendar year in which the member attains age seventy one and one-half; or (b) the calendar year in which the member retires or otherwise ceases employment with a participating employer; and

(18) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

§18-7B-11a. Rollovers and transfers to repay cashed-out or withdrawn contributions.

(a) This section applies to rollovers and transfers as specified in this section made on or after the first day of January, two thousand two. Notwithstanding any provision of this article to the contrary that would otherwise prohibit or limit rollovers and plan transfers to this system, the defined contribution system shall accept the following rollovers and plan transfers on behalf of a member solely for the purpose of repayment of cashed-out or withdrawn contributions, in whole or in part, as otherwise provided in this article or the rules applicable to the defined contribution system: (i) One or more rollovers within the meaning of section 408(d)(3) of the Internal Revenue Code from an individual retirement account described in Section 408(a) of the Internal Revenue Code or from an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; (ii) one or more rollovers described in Section 402(c) of the Internal Revenue Code from a retirement plan that is qualified under Section 401(a) of the Internal Revenue Code or from a plan described in Section 403(b) of the Internal Revenue
§18-7B-13b. Direct rollovers.

(a) This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's election under this system, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions apply:

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the
distributee, except that an eligible rollover distribution does not include any of the following: (i) Any distribution that is one of a series of substantially equal periodic payments not less frequently than annually made for the life or life expectancy of the distributee or the joint lives or the joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; (iii) the portion of any distribution that is not includable in gross income determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; (iv) any hardship distribution described in Section 401(k)(2)(B)(i)(iv) of the Internal Revenue Code; and (v) any other distribution or distributions reasonably expected to total less than two hundred dollars during a year. For distributions after the thirty-first day of December, two thousand one, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, this portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

(2) “Eligible retirement plan” means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code or a qualified plan described in Section 401(a) of the Internal Revenue Code that accepts the
distributee’s eligible rollover distribution. Provided, That in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individ-
ual retirement account or individual retirement annuity. For distributions after the thirty-first day of December, two thousand one, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into the plan from this system.

(3) "Distributee" means an employee or former em-
ployee. In addition, the employee’s or former employee's surviving spouse and the employee’s or former employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code with respect to governmental plans, are distributees with regard to the interest of the spouse or former spouse.

(4) "Direct rollover" means a payment by the system to the eligible retirement plan.

(b) Nothing in this section may be construed as permit-
ting rollovers into this retirement system or any other retirement system administered by the board.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-1a. Definitions.

(a) As used in this article, the term “judge”, “judge of any court of record” or “judge of any court of record of this state” means, refers to and includes judges of the several circuit courts and justices of the supreme court of
appeals. For purposes of this article, the terms do not mean, refer to or include family court judges.

(b) “Beneficiary” means any person, except a member, who is entitled to an annuity or other benefit payable by the retirement system.

c) “Board” means the consolidated public retirement board created pursuant to article ten-d, chapter five of this code.

(d) “Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

e) “Member” means a judge participating in this system.

(f) “Plan year” means the twelve-month period commencing on the first day of July of any designated year and ending the following thirtieth day of June.

(g) “Required beginning date” means the first day of April of the calendar year following the later of: (a) The calendar year in which the member attains age seventy and one-half; or (b) the calendar year in which the member retires or otherwise separates from covered employment.

(h) “Retirement system” or “system” means the judges retirement system created and established by this article. Notwithstanding any other provision of law to the contrary, the provisions of this article are applicable only to circuit judges and justices of the supreme court of appeals in the manner specified in this article. No service as a family court judge may be construed to qualify a person to participate in the judges retirement system or used in any manner as credit toward eligibility for retirement benefits under the judges retirement system.

§51-9-12c. Direct rollovers.

(a) This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this
article to the contrary that would otherwise limit a distributee's election under this system, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions apply:

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any of the following: (i) Any distribution that is one of a series of substantially equal periodic payments not less frequently than annually made for the life or life expectancy of the distributee or the joint lives or the joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; (iii) the portion of any distribution that is not includable in gross income determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; (iv) any hardship distribution described in Section 401(k)(2)(B)(i)(iv) of the Internal Revenue Code; and (v) any other distribution or distributions expected to total less than two hundred dollars during a year. For distributions after the thirty-first day of December, two thousand one, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, this portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts transferred, including separately accounting for the portion of the
distribution which is includable in gross income and the
portion of the distribution which is not includable.

(2) "Eligible retirement plan" means an individual
retirement account described in Section 408(a) of the
Internal Revenue Code, an individual retirement annuity
described in Section 408(b) of the Internal Revenue Code,
an annuity plan described in Section 403(a) of the Internal
Revenue Code, or a qualified plan described in Section
401(a) of the Internal Revenue Code, that accepts the
distributee's eligible rollover distribution: Provided, That
in the case of an eligible rollover distribution to the
surviving spouse, an eligible retirement plan is an individ-
ual retirement account or individual retirement annuity.
For distributions after the thirty-first day of December,
two thousand one, an eligible retirement plan also means
an annuity contract described in Section 403(b) of the
Internal Revenue Code and an eligible plan under Section
457(b) of the Internal Revenue Code which is maintained
by a state, political subdivision of a state, or any agency or
instrumentality of a state or political subdivision of a state
and which agrees to separately account for amounts
transferred into the plan from this system.

(3) "Distributee" means a judge or former judge. In
addition, the judge's or former judge's surviving spouse
and the judge's or former judge's spouse or former spouse
who is the alternate payee under a qualified domestic
relations order, as defined in Section 414(p) of the Internal
Revenue Code, with respect to governmental plans, are
distributees with regard to the interest of the spouse or
former spouse.

(4) "Direct rollover" means a payment by the system to
the eligible retirement plan.

(b) Nothing in this section may be construed as permit-
ting rollovers into this system or any other system admin-
istered by the board.
§51-9-12d. Rollovers and transfers to purchase service credit or repay withdrawn contributions.

(a) This section applies to rollovers and transfers as specified in this section made on or after the first day of January, two thousand two. Notwithstanding any provision of this article to the contrary that would otherwise prohibit or limit rollovers and plan transfers to this system, the retirement system shall accept the following rollovers and plan transfers on behalf of a member solely for the purpose of purchasing permissive service credit, in whole and in part, as otherwise provided in this article or for the repayment of withdrawn or refunded contributions, in whole and in part, with respect to a previous forfeiture of service credit as otherwise provided in this article: (i) One or more rollovers within the meaning of Section 408(d)(3) of the Internal Revenue Code from an individual retirement account described in Section 408(a) of the Internal Revenue Code or from an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; (ii) one or more rollovers described in Section 402(c) of the Internal Revenue Code from a retirement plan that is qualified under Section 401(a) of the Internal Revenue Code or from a plan described in Section 403(b) of the Internal Revenue Code; (iii) one or more rollovers described in Section 457(e)(16) of the Internal Revenue Code from a governmental plan described in Section 457 of the Internal Revenue Code; or (iv) direct trustee-to-trustee transfers or rollovers from a plan that is qualified under Section 401(a) of the Internal Revenue Code, from a plan described in Section 403(b) of the Internal Revenue Code or from a governmental plan described in Section 457 of the Internal Revenue Code: Provided, That any rollovers or transfers pursuant to this section shall be accepted by the system only if made in cash or other asset permitted by the board and only in accordance with policies, practices and procedures established by the board from time to time. For purposes of this section, the following definitions apply:
(1) "Permissive service credit" means service credit which is permitted to be purchased under the terms of the retirement system by voluntary contributions in an amount which does not exceed the amount necessary to fund the benefit attributable to the period of service for which the service credit is being purchased, all as defined in Section 415(n)(3)(A) of the Internal Revenue Code.

(2) "Repayment of withdrawn or refunded contributions" means the payment into the retirement system of the funds required pursuant to this article for the reinstatement of service credit previously forfeited on account of any refund or withdrawal of contributions permitted in this article, as set forth in Section 415(k)(3) of the Internal Revenue Code.

(b) Nothing in this section shall be construed as permitting rollovers or transfers into this system or any other system administered by the retirement board other than as specified in this section and no rollover or transfer shall be accepted into the system in an amount greater than the amount required for the purchase of permissive service credit or repayment of withdrawn or refunded contributions.

(c) Nothing in this section shall be construed as permitting the purchase of service credit or repayment of withdrawn or refunded contributions except as otherwise permitted in this article.
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 ninety days 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 2nd Day of, 2002.

Governor