WEST VIRGINIA LEGISLATURE
First Extraordinary Session, 2006

ENROLLED

SENATE BILL NO. 1009

(By Senator Tomlin, Mr. President, and Speaker, by request of the Executive)

PASSED June 14, 2006

In Effect from Passage
AN ACT to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended, relating to reemployment after retirement.

Be it enacted by the Legislature of West Virginia:

That §5-10-48 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

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

1 (a) The Legislature finds that a compelling state interest exists in maintaining an actuarially sound retirement system and that this interest necessitates that certain limitations be placed upon an individual's ability to retire from the system and to then later return to state employment as an employee with a participating public employer while contemporaneously drawing an annuity from the system. The Legislature hereby further finds and declares
that the interests of the public are served when persons
having retired from public employment are permitted,
within certain limitations, to render post-retirement
employment in positions of public service, either in elected
or appointed capacities. The Legislature further finds and
declares that it has the need for qualified employees and
that in many cases an employee of the Legislature will
retire and be available to return to work for the Legisla-
ture as a per diem employee. The Legislature further finds
and declares that in many instances these employees have
particularly valuable expertise which the Legislature
cannot find elsewhere. The Legislature further finds and
declares that reemploying these persons on a limited per
diem basis after they have retired is not only in the best
interests of this state, but has no adverse effect whatsoever
upon the actuarial soundness of this particular retirement
system.

(b) For the purposes of this section: (1) “Regularly
employed on a full-time basis” means employment of an
individual by a participating public employer, in a posi-
tion other than as an elected or appointed public official,
which normally requires twelve months per year service
and/or requires at least one thousand forty hours of service
per year in that position; (2) “temporary full-time employ-
ment or temporary part-time employment” means employ-
ment of an individual on a temporary or provisional basis
by a participating public employer, other than as an
elected or appointed public official, in a position which
does not otherwise render the individual as regularly
employed; (3) “former employee of the Legislature” means
any person who has retired from employment with the
Legislature and who has at least ten years’ contributing
service with the Legislature; and (4) “reemployed by the
Legislature” means a former employee of the Legislature
who has been reemployed on a per diem basis not to
exceed one hundred seventy-five days per calendar year.
(c) In the event a retirant becomes regularly employed on a full-time basis by a participating public employer, payment of his or her annuity shall be suspended during the period of his or her reemployment and he or she shall become a contributing member to the retirement system. If his or her reemployment is for a period of one year or longer, his or her annuity shall be recalculated and he or she shall be granted an increased annuity due to such additional employment, said annuity to be computed according to section twenty-two of this article. A retirant may accept temporary full-time or temporary part-time employment from a participating employer without suspending his or her retirement annuity so long as he or she does not receive annual compensation in excess of fifteen thousand dollars: Provided, That a retirant may be employed by the Legislature on a per diem basis without suspension of the retirement annuity if the retirant's annual compensation from the Legislature does not exceed twenty thousand dollars.

(d) In the event a member retires and is then subsequently elected to a public office or is subsequently appointed to hold an elected public office, or is a former employee of the Legislature who has been reemployed by the Legislature, he or she has the option, notwithstanding subsection (c) of this section, to either:

(1) Continue to receive payment of his or her annuity while holding such public office or during any reemployment of a former employee of the Legislature on a per diem basis, in addition to the salary he or she may be entitled to as such office holder or as a per diem reemployed former employee of the Legislature; or

(2) Suspend the payment of his or her annuity and become a contributing member of the retirement system as provided in subsection (c) of this section. Notwithstanding the provisions of this subsection, a member who is participating in the system as an elected public official may not retire from his or her elected position and commence to
receive an annuity from the system and then be reappointed to the same position unless and until a continuous six-month period has passed since his or her retirement from the position: Provided, That a former employee of the Legislature may not be reemployed by the Legislature on a per diem basis until at least sixty days after the employee has retired: Provided, however, That the limitation on compensation provided by subsection (b) of this section does not apply to the reemployed former employee: Provided further, That in no event may reemployment by the Legislature of a per diem employee exceed one hundred seventy-five days per calendar year.

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

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

(g) The provisions of section twenty-two-h of this article are not applicable to the amendments made to this section during the two thousand six regular session.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within...........................this the 28th Day of June, 2006.

Governor