

SB 1009

FILED

2006 JUN 28 P 2: 24

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
First Extraordinary Session, 2006

ENROLLED

SENATE BILL NO. 1009

(By Senators Tomblin, Mr. President, and Spraupe,
By Request of the Executive)

PASSED June 14, 2006

In Effect from Passage

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Senate Bill No. 1009

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
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
2 exists in maintaining an actuarially sound retirement
3 system and that this interest necessitates that certain
4 limitations be placed upon an individual's ability to retire
5 from the system and to then later return to state employ-
6 ment as an employee with a participating public employer
7 while contemporaneously drawing an annuity from the
8 system. The Legislature hereby further finds and declares

9 that the interests of the public are served when persons
10 having retired from public employment are permitted,
11 within certain limitations, to render post-retirement
12 employment in positions of public service, either in elected
13 or appointed capacities. The Legislature further finds and
14 declares that it has the need for qualified employees and
15 that in many cases an employee of the Legislature will
16 retire and be available to return to work for the Legisla-
17 ture as a per diem employee. The Legislature further finds
18 and declares that in many instances these employees have
19 particularly valuable expertise which the Legislature
20 cannot find elsewhere. The Legislature further finds and
21 declares that reemploying these persons on a limited per
22 diem basis after they have retired is not only in the best
23 interests of this state, but has no adverse effect whatsoever
24 upon the actuarial soundness of this particular retirement
25 system.

26 (b) For the purposes of this section: (1) "Regularly
27 employed on a full-time basis" means employment of an
28 individual by a participating public employer, in a posi-
29 tion other than as an elected or appointed public official,
30 which normally requires twelve months per year service
31 and/or requires at least one thousand forty hours of service
32 per year in that position; (2) "temporary full-time employ-
33 ment or temporary part-time employment" means employ-
34 ment of an individual on a temporary or provisional basis
35 by a participating public employer, other than as an
36 elected or appointed public official, in a position which
37 does not otherwise render the individual as regularly
38 employed; (3) "former employee of the Legislature" means
39 any person who has retired from employment with the
40 Legislature and who has at least ten years' contributing
41 service with the Legislature; and (4) "reemployed by the
42 Legislature" means a former employee of the Legislature
43 who has been reemployed on a per diem basis not to
44 exceed one hundred seventy-five days per calendar year.

45 (c) In the event a retirant becomes regularly employed on
46 a full-time basis by a participating public employer,
47 payment of his or her annuity shall be suspended during
48 the period of his or her reemployment and he or she shall
49 become a contributing member to the retirement system.
50 If his or her reemployment is for a period of one year or
51 longer, his or her annuity shall be recalculated and he or
52 she shall be granted an increased annuity due to such
53 additional employment, said annuity to be computed
54 according to section twenty-two of this article. A retirant
55 may accept temporary full-time or temporary part-time
56 employment from a participating employer without
57 suspending his or her retirement annuity so long as he or
58 she does not receive annual compensation in excess of
59 fifteen thousand dollars: *Provided*, That a retirant may be
60 employed by the Legislature on a per diem basis without
61 suspension of the retirement annuity if the retirant's
62 annual compensation from the Legislature does not exceed
63 twenty thousand dollars.

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

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

76 (2) Suspend the payment of his or her annuity and
77 become a contributing member of the retirement system as
78 provided in subsection (c) of this section. Notwithstanding
79 the provisions of this subsection, a member who is partici-
80 pating in the system as an elected public official may not
81 retire from his or her elected position and commence to

82 receive an annuity from the system and then be reap-
83 pointed to the same position unless and until a continuous
84 six-month period has passed since his or her retirement
85 from the position: *Provided*, That a former employee of the
86 Legislature may not be reemployed by the Legislature on
87 a per diem basis until at least sixty days after the em-
88 ployee has retired: *Provided, however*, That the limitation
89 on compensation provided by subsection (b) of this section
90 does not apply to the reemployed former employee:
91 *Provided further*, That in no event may reemployment by
92 the Legislature of a per diem employee exceed one hun-
93 dred seventy-five days per calendar year.

94 (e) A member who is participating in the system simulta-
95 neously as both a regular, full-time employee of a partici-
96 pating public employer and as an elected or appointed
97 member of the legislative body of the state or any political
98 subdivision may, upon meeting the age and service re-
99 quirements of this article, elect to retire from his or her
100 regular full-time state employment and may commence to
101 receive an annuity from the system without terminating
102 his or her position as a member of the legislative body of
103 the state or political subdivision: *Provided*, That the
104 retired member shall not, during the term of his or her
105 retirement and continued service as a member of the
106 legislative body of a political subdivision, be eligible to
107 continue his or her participation as a contributing member
108 of the system and shall not continue to accrue any addi-
109 tional service credit or benefits in the system related to the
110 continued service.

111 (f) Notwithstanding the provisions of section twenty-
112 seven-b of this article, any publicly elected member of the
113 legislative body of any political subdivision or of the state
114 Legislature, the Clerk of the House of Delegates and the
115 Clerk of the Senate may elect to commence receiving in-
116 service retirement distributions from this system upon
117 attaining the age of seventy and one-half years: *Provided*,
118 That the member is eligible to retire under the provisions

119 of section twenty or twenty-one of this article: *Provided,*
120 *however,* That the member elects to stop actively contrib-
121 uting to the system while receiving such in-service distri-
122 butions.

123 (g) The provisions of section twenty-two-h of this article
124 are not applicable to the amendments made to this section
125 during the two thousand six regular session.

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

Clayton White
.....
Chairman Senate Committee

Robert Byrd
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Samuel E. Elbert
.....
Clerk of the Senate

Bryce R. Byrd
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert Byrd
.....
Speaker House of Delegates

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

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

JUN 19 2006

Time 10:15