WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

SENATE BILL NO. 598

(By Senators Foster and Minard)

PASSED March 11, 2006

In Effect 90 days from Passage
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(BY SENATORS FOSTER AND MINARD)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to repeal §18-7A-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-7A-23 and §18-7A-25 of said code, all relating to the State Teachers Retirement System; deleting provisions which allowed for the distribution, without a contributor's consent, of accumulated contributions to the State Teachers Retirement System to a contributor with fewer than five years of service who quits service or ceases to be a member; and correcting code references.

Be it enacted by the Legislature of West Virginia:

That §18-7A-24 of the Code of West Virginia, 1931, as amended, be repealed; and that §18-7A-23 and §18-7A-25 of said code be amended and reenacted, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

Benefits upon withdrawal from service prior to retirement under the provisions of this article shall be as follows:

(a) A contributor who withdraws from service for any cause other than death or retirement shall, upon application, be paid his or her accumulated contributions plus refund interest up to the end of the fiscal year preceding the year in which application is made, but in no event shall interest be paid beyond the end of five years following the year in which the last contribution was made: *Provided,* that such contributor, at the time of application, is then no longer under contract, verbal or otherwise, to serve as a teacher; or

(b) If such contributor has completed twenty years of total service, he or she may elect to receive at retirement age an annuity which shall be computed as provided in this article: *Provided,* that if such contributor has completed as least five, but fewer than twenty years of total service in this state, he or she may elect to receive at age sixty-two an annuity which shall be computed as provided in this article. The contributor must notify the retirement board in writing concerning such election. If such contributor has completed fewer than five years of service in this state, he or she shall be subject to the provisions as outlined in subsection (a) above.

Benefits upon the death of a contributor prior to retirement under the provisions of this article shall be paid as follows:

(1) If the contributor was at least fifty years old, and if his or her total service as a teacher was at least twenty-five years at the time of his or her death, then the surviving spouse of the deceased, provided the spouse is designated as the sole refund beneficiary, is eligible for an annuity computed as though the deceased were actually a retired teacher at the time of death, and had selected a survivorship option which pays the spouse the same
monthly amount which would have been received by the deceased; or

(2) If the facts do not permit payment under the preceding paragraph (1), then the following sum shall be paid to the refund beneficiary of the contributor: The contributor’s accumulated contributions with refund interest up to the year of his or her death plus the amount of his or her accumulated contributions. The latter sum shall emanate from the employer’s accumulation fund.

§18-7A-25. Eligibility for retirement allowance.

(a) Any member who has attained the age of sixty years or who has had thirty-five years of total service as a teacher in West Virginia, regardless of age, is eligible for an annuity. No new entrant nor present member is eligible for an annuity, however, if either has less than five years of service to his or her credit.

(b) Any member who has attained the age of fifty-five years and who has served thirty years as a teacher in West Virginia is eligible for an annuity.

(c) Any member who has served at least thirty but less than thirty-five years as a teacher or nonteaching member in West Virginia and is less than fifty-five years of age is eligible for an annuity, but the annuity shall be the reduced actuarial equivalent of the annuity the member would have received if the member were age fifty-five at the time such annuity was applied for.

(d) The request for any annuity shall be made by the member in writing to the retirement board, but in case of retirement for disability, the written request may be made by either the member or the employer.

(e) A member is eligible for annuity for disability if he or she satisfies the conditions in either subdivision (1) or (2) of this subsection and meets the conditions of subdivision (3) of this subsection as follows:
(1) His or her service as a teacher or nonteaching member in West Virginia must total at least ten years and service as a teacher or nonteaching member must have been terminated because of disability, which disability must have caused absence from service for at least six months before his or her application for disability annuity is approved.

(2) His or her service as a teacher or nonteaching member in West Virginia must total at least five years and service as a teacher or nonteaching member must have been terminated because of disability, which disability must have caused absence from service for at least six months before his or her application for disability annuity is approved and the disability is a direct and total result of an act of student violence directed toward the member.

(3) An examination by a physician or physicians selected by the retirement board must show that the member is at the time mentally or physically incapacitated for service as a teacher, that for that service the disability is total and likely to be permanent and that he or she should be retired in consequence of the disability.

(f) Continuance of the disability of the retired member shall be established by medical examination, as prescribed in subdivision (3), subsection (e) of this section, annually for five years after retirement, and thereafter at such times required by the retirement board. Effective the first day of July, one thousand nine hundred ninety-eight, a member who has retired because of a disability may select an option of payment under the provisions of section twenty-eight of this article: Provided, That any option selected under the provisions of section twenty-eight of this article shall be in all respects the actuarial equivalent of the straight life annuity benefit the disability retiree receives or would receive if the options under said section were not available and that no beneficiary or beneficiaries of the disability annuitant may receive a greater benefit, nor receive any benefit for a greater length of time, than the
beneficiary or beneficiaries would have received had the disability retiree not made any election of the options available under said section. In determining the actuarial equivalence, the board shall take into account the life expectancies of the member and the beneficiary: Provided, however, That the life expectancies may at the discretion of the board be established by an underwriting medical director of a competent insurance company offering annuities. Payment of the disability annuity provided in this article shall cease immediately if the retirement board finds that the disability of the retired teacher no longer exists, or if the retired teacher refuses to submit to medical examination as required by this section.
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 30th Day of April, 2006.

Governor