

HB 210

FILED

2009 JUL -9 PM 4: 16

OFFICE OF THE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND EXTRAORDINARY SESSION, 2008



**ENROLLED**

**House Bill No. 210**

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)  
[By Request of the Executive]



Passed June 26, 2008

In Effect from Passage

**ENROLLED**

**FILED**

2008 JUL -9 PM 4:16

**H. B. 210**

CLERK OF THE HOUSE

---

(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)  
[BY REQUEST OF THE EXECUTIVE]

---

[Passed June 26, 2008; in effect from passage.]

AN ACT to amend and reenact §18-7B-7a of the Code of West Virginia, 1931, as amended; to amend and reenact §18-7D-2, §18-7D-5, §18-7D-6, §18-7D-7 and §18-7D-9 of said code; and to amend said code by adding thereto a new section, designated §18-7D-12, all relating to the voluntary transfer of assets from the Teachers' Defined Contribution Retirement System to the State Teachers Retirement System generally; providing option for certain rehired persons; providing a date for the transfer of assets of certain transferring members; providing a deadline for the payment required to receive full credit in the State Teachers Retirement System for service in the Teachers' Defined Contribution Retirement System; establishing deadline for providing notice of intent to retire for certain transferring members; providing that certain submissions of elections to transfer shall be counted; providing option to certain members misidentified; establishing requirements for repurchase of certain service in the State Teachers Retirement System by transferring members against whom a qualified domestic relations order has been entered; and clarifying that any transferring member shall be fully credited for the member's years of service in the Teachers' Defined Contribution Retirement System.

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

That §18-7B-7a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18-7D-2, §18-7D-5, §18-7D-6, §18-7D-7 and §18-7D-9 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18-7D-12, all to read as follows:

**ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION  
RETIREMENT SYSTEM.**

**§18-7B-7a. Plan closed to persons employed for the first time  
after June, 2005; former employees.**

1       The retirement system created and established in this  
2 article shall be closed and no new members accepted in the  
3 system after the thirtieth day of June, two thousand five.  
4 Notwithstanding the provisions of sections seven and eight of  
5 this article, all persons who are regularly employed for full-  
6 time service as a member or an employee whose initial  
7 employment commences after the thirtieth day of June, two  
8 thousand five, shall become a member of the State Teachers'  
9 Retirement System created and established in article seven-a  
10 of this chapter: *Provided*, That any person rehired after the  
11 thirtieth day of June, two thousand five, shall become a  
12 member of the Teachers' Defined Contribution Retirement  
13 System created and established in this article, or of the  
14 Teachers Retirement System created and established in article  
15 seven-a of this chapter, depending upon which system he or  
16 she last contributed to while he or she was employed with an  
17 employer mandating membership and contributions to one of  
18 those plans: *Provided, however*, That a rehired person who  
19 thereby becomes a member of the Teachers' Defined  
20 Contribution Retirement System may become a member of  
21 the Teachers Retirement System within the applicable time

22 periods and upon meeting the requirements provided in  
23 article seven-d of this chapter: *Provided further*, That any  
24 person rehired after the thirty-first day of December, two  
25 thousand seven, who did not have at least one dollar in the  
26 Teachers Defined Contribution Retirement System on the  
27 thirty-first day of December, two thousand seven, and for  
28 whom the Teachers Defined Contribution Retirement  
29 System was the system to which he or she last contributed  
30 while employed by an employer who required membership  
31 and contributions to one of the two teachers retirement plans,  
32 shall, within ten days of returning to employment,  
33 affirmatively choose to reenter the Teachers Defined  
34 Contribution Retirement System or to become a contributing  
35 member of the Teachers Retirement System. Those rehired  
36 prior to the first day of July, two thousand eight, and who did  
37 not have at least one dollar in the Teachers Defined  
38 Contribution Retirement System on the thirty-first day of  
39 December, two thousand seven, as determined by the  
40 Consolidated Public Retirement Board, shall be permitted to  
41 voluntarily elect to transfer effective the first day of August,  
42 two thousand eight, upon written request to the Consolidated  
43 Public Retirement Board received no later than the fifteenth  
44 day of July, two thousand eight.

**ARTICLE 7D. VOLUNTARY TRANSFER FROM  
TEACHERS' DEFINED  
CONTRIBUTION RETIREMENT  
SYSTEM TO STATE TEACHERS  
RETIREMENT SYSTEM.**

**§18-7D-2. Definitions.**

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

3       (1) “Actively contributing member of the Teachers’  
4   Defined Contribution Retirement System” means a member  
5   of that retirement system who was actively contributing to  
6   the Teachers’ Defined Contribution Retirement System on  
7   the thirty-first day of December, two thousand seven.

8       (2) “Actuarial Reserve” means the Actuarial Reserve  
9   Lump Sum Value of the additional service credit being  
10   purchased by a member so electing in accordance with the  
11   provisions of section six of this article.

12       (3) “Actuarial Reserve Adjusted Salary” means either:

13       (A) For a member with a full year service credit in the  
14   fiscal year ending the thirtieth day of June, two thousand  
15   seven, the member’s two thousand seven fiscal year salary  
16   increased by seven percent;

17       (B) For a member with less than a full year service credit  
18   in the fiscal year ending the thirtieth day of June, two  
19   thousand seven, the member’s two thousand seven fiscal year  
20   salary annualized to a full year based on the partial year  
21   service credit increased by seven percent; or

22       (C) For a member without service credit in the fiscal year  
23   ending the thirtieth day of June, two thousand seven, the  
24   member’s annualized contract salary in effect on the thirty-  
25   first day of December, two thousand seven increased by  
26   seven percent, or the member’s annual contract salary on the  
27   date of rehire if after the thirty-first day of December, two  
28   thousand seven.

29       (4) “Actuarial Reserve Benefit Date” means the first day  
30   of the month coincident with or next following the date at  
31   which the member attains the age of sixty, or the thirtieth day  
32   of June, two thousand nine, whichever is later.

33       (5) "Actuarial Reserve Benefit Date Factors" mean the  
34 actuarial lump sum value factors based on a life only annuity  
35 starting on the Actuarial Reserve Benefit Date applying the  
36 1983 Group Annuity Mortality Tables on a seventy-five  
37 percent female and a twenty-five percent male blended  
38 Unisex basis and interest at seven and one-half percent.

39       (6) "Actuarial Reserve Discount Factor" means the  
40 annual discount factor applied for the period between the  
41 thirtieth day of June, two thousand nine and the Actuarial  
42 Reserve Benefit Date, if any. Such factor based on the State  
43 Teachers Retirement System actuarial valuation assumptions  
44 shall estimate the impact of mortality, disability, and  
45 economic factors for such discount period by application of  
46 a net four percent discount rate.

47       (7) "Actuarial Reserve Lump Sum Value" means a single  
48 sum amount calculated as: A benefit of two percent  
49 multiplied by the Defined Contribution Retirement System  
50 service credit being purchased multiplied by the Actuarial  
51 Reserve Adjusted Salary; such benefit multiplied by the  
52 Actuarial Reserve Benefit Date Factors to determine the lump  
53 sum value multiplied by the Actuarial Reserve Discount  
54 Factor.

55       (8) "Affirmatively elect to transfer" means the voluntary  
56 execution and delivery to the Consolidated Public Retirement  
57 Board, by a member of the Teachers' Defined Contribution  
58 Retirement System of a document in a form prescribed by the  
59 board that irrevocably authorizes the board to transfer the  
60 member and all the member's assets in the Teachers' Defined  
61 Contribution Retirement System to the State Teachers  
62 Retirement System: *Provided*, That delivery of the document  
63 to the Consolidated Public Retirement Board may be  
64 accomplished through submission of the document to the  
65 supervisor of a work site pursuant to section seven of this

66 article: *Provided, however*, That any previous member of the  
67 state Teachers Retirement System who voluntarily elected to  
68 terminate his or her membership in the State Teachers  
69 Retirement System to become a member of the Teachers'  
70 Defined Contribution Retirement System and signed an  
71 irrevocable transfer request also may affirmatively elect to  
72 transfer notwithstanding the prior transfer request.

73 (9) "Assets" means all member contributions and  
74 employer contributions made on the member's behalf to the  
75 Defined Contribution Retirement System and earnings  
76 thereon, less any applicable fees as approved by the board:  
77 *Provided*, That if a member has withdrawn or cashed out any  
78 amounts, the amounts must have been repaid.

79 (10) "Board" means the Consolidated Public Retirement  
80 Board established in article ten-d, chapter five of this code,  
81 and its employees.

82 (11) "Date of transfer" means, in the event that sixty-five  
83 percent or more of the actively contributing members of the  
84 Defined Contribution Retirement System affirmatively elect  
85 to transfer to the State Teachers Retirement System within  
86 the period provided in section seven of this article, the first  
87 day of July, two thousand eight: *Provided*, That for any  
88 member whose election to transfer was received by the board  
89 after the twelfth day of May, two thousand eight, but on or  
90 before the twentieth day of May, two thousand eight, and has  
91 not been certified as accepted by the board on or before the  
92 effective date of the amendments to this section enacted  
93 during the second extraordinary session of the Legislature,  
94 two thousand eight, "date of transfer" means the first day of  
95 August, two thousand eight.

96 (12) "Defined Contribution Retirement System" means  
97 the Teachers' Defined Contribution Retirement System  
98 established in article seven-b of this chapter.

99       (13) "Member" means any person who has an account  
100 balance standing to his or her credit in the Teachers' Defined  
101 Contribution Retirement System.

102       (14) "Salary" means:

103       (A) For a member contributing to the Defined  
104 Contribution Retirement System during the two thousand  
105 seven fiscal year, the actual salary earned for the two  
106 thousand seven fiscal year divided by the employment  
107 service earned in the two thousand seven fiscal year.

108       (B) For a member not contributing to the Defined  
109 Contribution Retirement System during the two thousand  
110 seven fiscal year, the contract salary on the date of rehire.

111       (15) "State Teachers Retirement System" means the State  
112 Teachers Retirement System established in article seven-a of  
113 this chapter.

**§18-7D-5. Conversion of assets from Defined Contribution  
Retirement System to State Teachers Retirement  
System; contributions; loans.**

1       (a) If at least sixty-five percent of actively contributing  
2 members of the Teachers' Defined Contribution Retirement  
3 System affirmatively elect to transfer to the State Teachers  
4 Retirement System within the period provided in section  
5 seven of this article, then the Consolidated Public Retirement  
6 Board shall transfer the members and all properties held in  
7 the Teachers' Defined Contribution Retirement System's  
8 Trust Fund in trust for those members who affirmatively  
9 elected to do so during that period to the State Teachers  
10 Retirement System, effective on the first day of July, two  
11 thousand eight: *Provided*, That the board shall, for any  
12 member whose election to transfer was received by the board



13 after the twelfth day of May, two thousand eight, but on or  
14 before the twentieth day of May, two thousand eight, and has  
15 not been certified as accepted by the board on or before the  
16 effective date of the amendments to this section enacted  
17 during the second extraordinary session of the Legislature,  
18 two thousand eight, effectuate the transfer as provided in this  
19 subsection on the first day of August, two thousand eight.

20 (b) The board shall make available to each member a loan  
21 for the purpose of paying all or part of the Actuarial Reserve,  
22 or if available in accordance with the provisions of  
23 subsection (d), section six of this article, the one and one-half  
24 percent contribution for service in the Teachers' Defined  
25 Contribution System to receive additional service credit in  
26 the State Teachers Retirement System for service in the  
27 Teachers' Defined Contribution Retirement System pursuant  
28 to section six of this article. The loan shall be offered in  
29 accordance with the provisions of section thirty-four, article  
30 seven-a of this chapter.

31 (1) Notwithstanding any provision of this code, rule or  
32 policy of the board to the contrary, the interest rate on any  
33 loan may not exceed seven and one-half percent per annum.  
34 The total amount borrowed may not exceed forty thousand  
35 dollars: *Provided*, That the loan may not exceed the  
36 limitations of the Internal Revenue Code Section 72 (p).

37 (2) In the event a loan made pursuant to this section is  
38 used to pay the Actuarial Reserve or the one and one-half  
39 percent contribution, as the case may be, the board shall  
40 make any necessary adjustments at the time the loan is made.

41 (3) The board shall make this loan available until the  
42 thirtieth day of June, two thousand nine.

43       (c) The board shall develop and institute a payroll  
44 deduction program for repayment of the loan established in  
45 this section.

46       (d) If at least sixty-five percent of actively contributing  
47 members of the Teachers' Defined Contribution Retirement  
48 System affirmatively elect to transfer to the State Teachers  
49 Retirement System within the period provided in section  
50 seven of this article:

51       (1) As of the first day of July, two thousand eight, or the  
52 first day of August, two thousand eight, as the case may be,  
53 the transferred members' contribution rate becomes six  
54 percent of his or her salary or wages; and

55       (2) All transferred members who work one hour or more  
56 and who make a contribution into the State Teachers  
57 Retirement System on or after the first day of July, two  
58 thousand eight, are governed by the provisions of article  
59 seven-a of this chapter, subject to the provisions of this  
60 article.

61       (e) Subject to the provisions of subdivision (1) of this  
62 subsection, if a member has withdrawn or cashed out part of  
63 his or her assets, that member will not receive credit for those  
64 moneys cashed out or withdrawn. The board shall make a  
65 determination as to the amount of credit a member loses  
66 based on the periods of time and the amounts he or she has  
67 withdrawn or cashed out, which shall be expressed as a loss  
68 of service credit.

69       (1) A member may repay those amounts he or she  
70 previously cashed out or withdrew, along with interest as  
71 determined by the board, and receive the same credit as if the  
72 withdrawal or cash-out never occurred. To receive full credit  
73 for the cashed-out or withdrawn amounts being repaid to the

74 State Teachers Retirement System, the member also shall pay  
75 the actuarial reserve, or the one and one-half percent  
76 contribution, as the case may be, pursuant to section six of  
77 this article.

78 (2) The loan provided in this section is not available to  
79 members to repay previously cashed out or withdrawn  
80 moneys.

81 (3) If the repayment occurs five or more years following  
82 the cash-out or withdrawal, the member also shall repay any  
83 forfeited employer contribution account balance along with  
84 interest determined by the board.

85 (f) Notwithstanding any provision of subsection (e) to the  
86 contrary, if a member has cashed out or withdrawn any of his  
87 or her assets after the last day of June, two thousand three,  
88 and that member chooses to repurchase that service after the  
89 thirtieth day of June, two thousand eight, the member shall  
90 repay the previously distributed amounts and any applicable  
91 interest to the State Teachers Retirement System.

92 (g) Any service in the State Teachers Retirement System  
93 a member has before the date of the transfer is not affected by  
94 the provisions of this article.

95 (h) The board shall take all necessary steps to see that the  
96 voluntary transfers of persons and assets authorized by this  
97 article do not affect the qualified status with the Internal  
98 Revenue Service of either retirement plan.

**§18-7D-6. Service credit in State Teachers Retirement System  
following transfer; conversion of assets;  
adjustments.**

1       (a) Any member who has affirmatively elected to transfer  
2 to the State Teachers Retirement System within the period  
3 provided in section seven of this article whose assets have  
4 been transferred from the Teachers' Defined Contribution  
5 Retirement System to the State Teachers Retirement System  
6 pursuant to the provisions of this article and who has not  
7 made any withdrawals or cash-outs from his or her assets is,  
8 depending upon the percentage of actively contributing  
9 members affirmatively electing to transfer, entitled to service  
10 credit in the State Teachers Retirement System in accordance  
11 with the provisions of subsections (c) or (d) of this section.

12       (b) Any such member who has made withdrawals or  
13 cash-outs will receive service credit based upon the amounts  
14 transferred. The board shall make the appropriate adjustment  
15 to the service credit the member will receive.

16       (c) If at least sixty-five percent but less than seventy-five  
17 percent of actively contributing members of the Teachers'  
18 Defined Contribution Retirement System affirmatively elect  
19 to transfer to the State Teachers Retirement System within  
20 the period provided in section seven of this article, for any  
21 member of the Defined Contribution Retirement System who  
22 elects to transfer to the State Teachers Retirement System, his  
23 or her service credit in the State Teachers Retirement System  
24 is determined as follows:

25       (1) For any member affirmatively electing to transfer, the  
26 member's State Teachers Retirement System credit shall be  
27 seventy-five percent of the member's Teachers' Defined  
28 Contribution Retirement System service credit, less any  
29 service previously withdrawn by the member or due to a  
30 qualified domestic relations order and not repaid;

31       (2) To receive full credit in the State Teachers Retirement  
32 System for service in the Teachers' Defined Contribution

33 Retirement System for which assets are transferred,  
34 transferring members shall have the option to pay into the  
35 State Teachers Retirement System the Actuarial Reserve, as  
36 defined in section two of this article, by no later than the  
37 thirtieth day of June, two thousand nine.

38 (d) If at least seventy-five percent of actively contributing  
39 members of the Teachers' Defined Contribution Retirement  
40 System affirmatively elect to transfer to the State Teachers  
41 Retirement System within the period provided in section  
42 seven of this article, for any member of the Defined  
43 Contribution Retirement System who elects to transfer to the  
44 State Teachers Retirement System, his or her service credit  
45 in the State Teachers Retirement System is determined as  
46 follows:

47 (1) For any member affirmatively electing to transfer, the  
48 member's State Teachers Retirement System credit shall be  
49 seventy-five percent of the member's Teachers' Defined  
50 Contribution Retirement System service credit, less any  
51 service previously withdrawn by the member or due to a  
52 qualified domestic relations order and not repaid;

53 (2) To receive full credit in the State Teachers Retirement  
54 System for service in the Teachers' Defined Contribution  
55 Retirement System for which assets are transferred, members  
56 who affirmatively elected to transfer shall pay into the State  
57 Teachers Retirement System a one and one-half percent  
58 contribution by no later than the thirtieth day of June, two  
59 thousand nine. This contribution shall be calculated as one  
60 and one-half percent of the member's estimated total earnings  
61 for which assets are transferred, plus interest of four percent  
62 per annum accumulated from the date of the member's initial  
63 participation in the Defined Contribution Retirement System.

64       (A) For a member contributing to the Defined  
65 Contribution Retirement System at any time during the two  
66 thousand eight fiscal year and commencing membership in  
67 the State Teachers Retirement System on the first day of July,  
68 two thousand eight, or the first day of August, two thousand  
69 eight, as the case may be:

70       (i) The estimated total earnings shall be calculated based  
71 on the member's salary and the member's age nearest birthday  
72 on the thirtieth day of June, two thousand eight;

73       (ii) This calculation shall apply both an annual backward  
74 salary scale from that date for prior years' salaries and a  
75 forward salary scale for the salary for the two thousand eight  
76 fiscal year.

77       (B) The calculations in paragraph (A) of this subdivision are  
78 based upon the salary scale assumption applied in the West  
79 Virginia Teachers Retirement System Actuarial Valuation as  
80 of the first day of July, two thousand seven, prepared for the  
81 Consolidated Public Retirement Board. This salary scale  
82 shall be applied regardless of breaks in service.

83       (e) All service previously transferred from the State  
84 Teachers Retirement System to the Teachers' Defined  
85 Contribution Retirement System is considered Teachers'  
86 Defined Contribution Retirement System service for the  
87 purposes of this article.

88       (f) Notwithstanding any provision of this code to the  
89 contrary, the retirement of a member who becomes eligible  
90 to retire after the member's assets are transferred to the State  
91 Teachers Retirement System pursuant to the provisions of  
92 this article may not commence prior to the first day of  
93 September, two thousand eight: *Provided*, That the  
94 Consolidated Public Retirement Board may not retire any  
95 member who is eligible to retire during the calendar year two

96 thousand eight during the calendar year two thousand eight  
97 unless the member has provided a written notice to his or her  
98 county board of education by the first day of July, two  
99 thousand eight, of his or her intent to retire.

**§18-7D-7. Period for affirmative election to transfer; board  
may contract for professional services.**

1 (a) The board shall provide the members of the Teachers'  
2 Defined Contribution Retirement System an opportunity to  
3 voluntarily execute and deliver to the Consolidated Public  
4 Retirement Board, or its designee, a written document in a  
5 form prescribed by the board that irrevocably authorizes the  
6 board to transfer the member and all the member's assets in  
7 the Teachers' Defined Contribution Retirement System to the  
8 State Teachers Retirement System in accordance with the  
9 provisions of this article.

10 (b) If at least sixty-five percent of actively contributing  
11 members of the Teachers' Defined Contribution Retirement  
12 System affirmatively elect to transfer to the State Teachers  
13 Retirement System:

14 (1) The Consolidated Public Retirement Board shall, for  
15 each member who affirmatively elected to transfer as  
16 provided in this section, transfer the assets held in the  
17 Teachers' Defined Contribution Retirement System's Trust  
18 Fund in trust for that member to the State Teachers  
19 Retirement System on the first day of July, two thousand  
20 eight: *Provided*, That the board shall, for each member  
21 whose election to transfer was received by the board after the  
22 twelfth day of May, two thousand eight, but on or before the  
23 twentieth day of May, two thousand eight, and has not been  
24 certified as accepted by the board on or before the effective  
25 date of the amendments to this section enacted during the  
26 second extraordinary session of the Legislature, two thousand

27 eight, transfer the assets of such member as provided in this  
28 subdivision on the first day of August, two thousand eight;

29 (2) On the first day of July, two thousand eight, or the  
30 first day of August, two thousand eight, as the case may be,  
31 each member who so elected becomes a member of the State  
32 Teachers Retirement System and after working one or more  
33 hours and contributing to the State Teachers Retirement  
34 System is entitled to the benefits of the State Teachers  
35 Retirement System; and

36 (3) Each such member is governed by the provisions of  
37 the State Teachers Retirement System subject to the  
38 provisions of this article.

39 (c) If fewer than sixty-five percent of actively  
40 contributing members of the Teachers' Defined Contribution  
41 Retirement System affirmatively elect to transfer to the State  
42 Teachers Retirement System, the transfers described in this  
43 section shall not occur.

44 (d) Any person who has one dollar or more in assets in  
45 the Teachers' Defined Contribution Retirement System on the  
46 last day of December, two thousand seven, may and is  
47 eligible to affirmatively elect to transfer to the State Teachers  
48 Retirement System as provided in this section. For purposes  
49 of this article:

50 (1) The tabulation of the percentage required for transfer  
51 as required in this article shall only include documents  
52 affirmatively electing to transfer submitted under the  
53 provisions of this subsection by those who are actively  
54 contributing members of the Teachers' Defined Contribution  
55 Retirement System as that term is defined in section two of  
56 this article; and



57       (2) Notwithstanding the opportunity to submit documents  
58 affirmatively electing to transfer extended by this article to  
59 members other than those who are actively contributing  
60 members of the Teachers' Defined Contribution Retirement  
61 System, there shall be no duty or other obligation on the part  
62 of the board to provide any education, information or notice  
63 regarding matters contained in this article to members who  
64 are not actively contributing members of the Teachers'  
65 Defined Contribution Retirement System regarding any  
66 matter described in this article, nor any right on the part of  
67 those other members to receive the same.

68       (e) Notwithstanding any other provision of this code to  
69 the contrary, the board may do all things necessary and  
70 convenient to maintain the Teachers' Defined Contribution  
71 Retirement System and the State Teachers Retirement System  
72 during the transitional period and may retain the services of  
73 the professionals it considers necessary to do so. The board  
74 may also retain the services of professionals necessary to:

75       (1) Assist in the preparation of educational materials;

76       (2) Assist in the educational process;

77       (3) Assist in the process for submission of the documents  
78 whereby members may affirmatively elect to transfer; and

79       (4) Ensure compliance with all relevant state and federal  
80 laws.

81       (f) Due to the time constraints inherent in the initial  
82 processes established for the submission of documents  
83 affirmatively electing to transfer set forth in this article in  
84 specific, and due to the nature of the professional services  
85 required by the Consolidated Public Retirement Board in  
86 general, the provisions of article three, chapter five-a of this

87 code, do not apply to any materials, contracts for any  
88 actuarial services, investment services, legal services or other  
89 professional services authorized under the provisions of this  
90 article and the provisions of article six, chapter twenty-nine  
91 do not apply to any employment of or contracting for  
92 personnel by the board for the purposes of implementing the  
93 provisions of this article.

94 (g) The submission of the documents whereby members  
95 may affirmatively elect to transfer may be held through any  
96 method the board determines is in the best interest of the  
97 members: *Provided*, That for members of the Teachers'  
98 Defined Contribution Retirement System, the submission of  
99 the documents whereby those members elect to transfer shall  
100 be pursuant to the procedure established by the Consolidated  
101 Public Retirement Board set forth in subsection (j) of this  
102 section.

103 (h) The period for submission of the documents whereby  
104 members may affirmatively elect to transfer shall begin not  
105 later than the first day of April, two thousand eight. The  
106 board shall ascertain the results of the submissions not later  
107 than the last day of May, two thousand eight. The board shall  
108 certify the results of the submissions to the Governor, the  
109 Legislature and the members not later than the fifth day of  
110 June, two thousand eight.

111 (i) The submission period terminates and elections to  
112 transfer may not be accepted from a member after the twelfth  
113 day of May, two thousand eight, subject to the following:

114 (1) If elections to transfer are permitted through the mail,  
115 any submission postmarked later than the twelfth day of May,  
116 two thousand eight, is void and may not be counted:  
117 *Provided*, That notwithstanding the provisions of this  
118 subdivision, any submission received by the board on or

119 before the twentieth day of May, two thousand eight shall be  
120 counted;

121 (2) If elections to transfer are delivered to a supervisor on  
122 selection day or on or before the ninth day of May, two  
123 thousand eight, any submission postmarked or deposited with  
124 a commercial carrier later than the thirteenth day of May, two  
125 thousand eight, is void and may not be counted: *Provided,*  
126 That notwithstanding the provisions of this subdivision, any  
127 submission received by the board on or before the twentieth  
128 day of May, two thousand eight shall be counted: *Provided,*  
129 *however,* That delivery by mail must be by certified mail,  
130 return receipt requested or delivery by commercial courier  
131 that requires written confirmation by the board of delivery;

132 (3) The fifth day of May, two thousand eight, is selection  
133 day upon which each county board and superintendent shall  
134 provide an opportunity in each school within the county for  
135 members of the Teachers' Defined Contribution System to  
136 affirmatively elect to transfer.

137 (j) The Consolidated Public Retirement Board shall  
138 collaborate with the state superintendent, the Chancellor for  
139 Higher Education and the Chancellor for Community and  
140 Technical College Education to establish a procedure  
141 whereby all actively contributing members of the Teachers'  
142 Defined Contribution Retirement System may deliver to the  
143 Consolidated Public Retirement Board or its designee the  
144 written document authorizing transfer through a supervisor  
145 at each work site where any contributing member of the  
146 Defined Contribution Retirement System is employed. The  
147 procedure shall include at least the following:

148 (1) The supervisor at each work site is responsible for  
149 collecting the written documents authorizing the transfer  
150 from all actively contributing members of the Teachers'  
151 Defined Contribution Retirement System employed at the

152 work site who choose to submit the written document. The  
153 supervisor shall record the receipt of all written documents  
154 authorizing transfer, shall direct the member submitting the  
155 written document to initial a receipt log and shall issue a  
156 receipt to the member submitting the written document.

157 (2) On and after the sixth day of May, two thousand  
158 eight, but on or before the ninth day of May, two thousand  
159 eight, the supervisor at the work site shall make reasonable  
160 efforts to contact verbally and in writing all actively  
161 contributing members of the Teachers' Defined Contribution  
162 Retirement System employed at the work site that have not  
163 submitted their written documents as of that date to remind  
164 those members of the upcoming deadline for submitting their  
165 written document authorizing transfer: *Provided*, That failure  
166 of the supervisor to make contact with any of those members  
167 shall not be a basis for a cause of action to allow a member  
168 to transfer after the period provided in this section or for any  
169 other cause of action.

170 (3) The supervisor at each work site shall forward all of  
171 the written documents to the Consolidated Public Retirement  
172 Board, or its designee, through certified mail, or delivery by  
173 commercial courier that requires written confirmation by the  
174 board of delivery, no later than the thirteenth day of May,  
175 two thousand eight: *Provided*, That notwithstanding the  
176 provisions of this subdivision, any submission received by  
177 the board on or before the twentieth day of May, two  
178 thousand eight, shall be counted. The work site supervisor  
179 shall inform the Consolidated Public Retirement Board of all  
180 of the written documents received each day so that the board,  
181 or its designee, can record which members of the Teachers'  
182 Defined Contribution Retirement System have submitted  
183 their written documents authorizing transfer pursuant to  
184 subsection (k) of this section.

185       (4) For the purposes of this subdivision, the principal of  
186 a school with any of grades prekindergarten through twelve  
187 is the work site supervisor. For the purposes of this  
188 subdivision, for any work site under the jurisdiction of the  
189 Higher Education Policy Commission or the West Virginia  
190 Council for Community and Technical College Education,  
191 the human resource administrator or other designee may be  
192 considered the work site supervisor. In any case where the  
193 person who is the work site supervisor is in question, the state  
194 board, the Chancellor for Higher Education or the Chancellor  
195 for Community and Technical College Education, whichever  
196 entity has jurisdiction over the work site, shall designate the  
197 supervisor.

198       (5) The state board, the Chancellor for Higher Education  
199 and the Chancellor for Community and Technical College  
200 Education shall ascertain the names of all work site  
201 supervisors under their jurisdiction and transmit a list of the  
202 names of the work site supervisors to the Consolidated Public  
203 Retirement Board on or before the thirty-first day of March,  
204 two thousand eight.

205       (k) The Consolidated Public Retirement Board, or its  
206 designee, shall record the receipt of all written documents  
207 authorizing the transfer so that it knows the percentage of  
208 contributing members of the Teachers' Defined Contribution  
209 Retirement System that have submitted the written  
210 documents by work site and by county.

211       (l) Notwithstanding any other provision of this article to  
212 the contrary, any member of the Teachers Defined  
213 Contribution Retirement System who was erroneously  
214 identified by the employer as being a member of the Teachers  
215 Retirement System and who did not have at least one dollar  
216 in the Teachers Defined Contribution Retirement System on  
217 the thirty-first day of December, two thousand seven and

218 therefore was denied an opportunity to select transfer as  
219 determined by the Consolidated Public Retirement Board,  
220 shall be provided promptly with an opportunity to select  
221 membership in the Teachers Retirement System. The  
222 Consolidated Public Retirement Board is authorized to  
223 establish procedures and time periods to provide notice,  
224 education, selection opportunity and transfer for these  
225 members to correct the erroneous assignment to the Teachers  
226 Retirement System.

**§18-7D-9. Qualified domestic relations orders.**

1 Any transferring member having a qualified domestic  
2 relations order against his or her defined contribution account  
3 is allowed to repurchase service in the State Teachers  
4 Retirement System. The member shall repay any moneys  
5 previously distributed to the alternate payee along with the  
6 interest as set by the board. To receive full credit for the  
7 previous distribution to the alternate payee pursuant to a  
8 qualified domestic relations order being repaid to the State  
9 Teachers Retirement System, the member shall also pay the  
10 Actuarial Reserve, or the one and one-half percent  
11 contribution, as the case may be, pursuant to section six of  
12 this article. The member shall repay by the last day of June,  
13 two thousand fourteen. The provisions of this section are  
14 void and of no effect if there is no transfer from the Teachers'  
15 Defined Contribution Retirement System to the State  
16 Teachers Retirement System. An alternate payee is not,  
17 solely as a result of that status, a member of either the  
18 Teachers' Defined Contribution Retirement System or the  
19 State Teachers Retirement System for any purpose under the  
20 provisions of this article and no interest held by the alternate  
21 payee is transferred to the State Teachers Retirement System  
22 pursuant thereto.

**§18-7D-12. Transferees' eligibility to retire.**

1       (a) For purposes of determining a transferring member's  
2       eligibility for retirement in accordance with section twenty-  
3       five, article seven-a of this chapter, any member who has  
4       affirmatively elected to transfer to the State Teachers  
5       Retirement System pursuant to the provisions of this article  
6       shall be fully credited for his or her years of service in the  
7       Teachers' Defined Contribution Retirement System:  
8       *Provided*, That the calculation of any transferring member's  
9       service credit in the State Teachers' Retirement System  
10      following the transfer shall be determined in accordance with  
11      the provisions of section six of this article.

12      (b) For purposes of this section, "years of service" shall  
13      mean all years as a member of the Teachers' Defined  
14      Contribution Retirement System and, in addition thereto,  
15      credits for any prior service, if any: *Provided*, That service  
16      previously withdrawn by a member may not be included in  
17      "years of service" unless repaid.

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

  
 Chairman Senate Committee

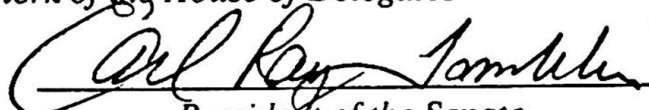
  
 Chairman House Committee

Originating in the House.

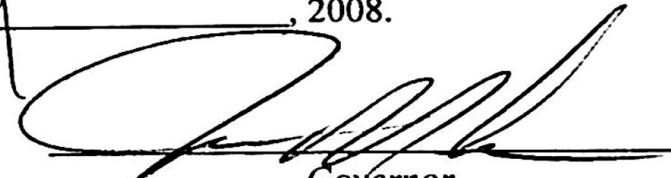
In effect from passage.

  
 Clerk of the Senate

  
 Clerk of the House of Delegates

  
 President of the Senate

  
 Speaker of the House of Delegates

The within is appended this the 9th  
 day of July, 2008.  
  
 Governor



PRESENTED TO THE  
GOVERNOR

JUN 28 2008

Time 1:39 pm