WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

House Bill No. 4623

(By Delegates Morgan, C. Miller and Craig)

Passed March 8, 2008

In Effect Ninety Days from Passage
(BY DELEGATES MORGAN, C. MILLER AND CRAIG)

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §18-23-4a of the Code of West Virginia, 1931, as amended, relating to the Higher Education Policy Commission; the Council for Community and Technical College Education; governing boards of state institutions of higher education; establishing minimum employer contributions; and allowing contributions to employee retirement plans by certain higher education employers to exceed the percentage contributions of employees.

Be it enacted by the Legislature of West Virginia:

That §18-23-4a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 23. ADDITIONAL POWERS, DUTIES AND RESPONSIBILITIES OF GOVERNING BOARDS OF STATE INSTITUTIONS OF HIGHER EDUCATION.
§18-23-4a. Supplemental and additional retirement plans for employees; payroll deductions; authority to match employee contributions; retroactive curative and technical corrective action.

(a) Any reference in this code to the “additional retirement plan” relating to state higher education employees, means the “higher education retirement plan” provided in this section. Any state higher education employee participating in a retirement plan upon the effective date of this section continues to participate in that plan and may not elect to participate in any other state retirement plan. Any retirement plan continues to be governed by the provisions of law applicable on the effective date of this section.

(b) The Higher Education Policy Commission, on behalf of the governing boards, Council for Community and Technical College Education and itself, shall contract for a retirement plan for its employees, to be known as the “Higher Education Retirement Plan”. The governing boards, Council for Community and Technical College Education and Higher Education Policy Commission shall make periodic deductions from the salary payments due the employees in the amount they are required to contribute to the Higher Education Retirement Plan, which deductions shall be six percent.

(c) The Higher Education Policy Commission, Council for Community and Technical College Education and the governing boards, may contract for supplemental retirement plans for any or all of their employees to supplement the benefits the employees otherwise receive. The governing boards, Council for Community and Technical College Education and Higher Education Policy Commission may make additional periodic deductions from the salary payments due the employees in the amount they are required to contribute for the supplemental retirement plan.
(d) Each governing board, the Council for Community and Technical College Education and the Higher Education Policy Commission, by way of additional compensation to their employees, shall pay an amount, which, at a minimum, equals the contributions of the employees into the higher education retirement plan from funds appropriated to the board or commission for personal services.

(e) As part of an overall compensation plan, the Higher Education Policy Commission, the Council for Community and Technical College Education or an institutional governing board, each at its sole discretion, may increase its contributions to any employee retirement plan to an amount that exceeds the contributions of employees.

(f) Each participating employee has a full and immediate vested interest in the retirement and death benefits accrued from all the moneys paid into the Higher Education Retirement Plan or a supplemental retirement plan for his or her benefit. Upon proper requisition of a board, the Council for Community and Technical College Education or the Higher Education Policy Commission, the Auditor periodically shall issue a warrant, payable as specified in the requisition, for the total contributions so withheld from the salaries of all participating employees and for the matching funds of the governing board, Council for Community and Technical College Education or Higher Education Policy Commission.

(g) Any person whose employment commences on or after the first day of July, one thousand nine hundred ninety-one, and who is eligible to participate in the Higher Education Retirement Plan, shall participate in that plan and is not eligible to participate in any other state retirement system: Provided, That the foregoing provision does not apply to a person designated as a 21st Century Learner.
Fellow pursuant to section eleven, article three, chapter eighteen-a of this code. The additional retirement plan contracted for by the governing boards prior to the first day of July, one thousand nine hundred ninety-one, remains in effect unless changed by the Higher Education Policy Commission. Nothing in this section may be construed to consider employees of the governing boards or the Council for Community and Technical College Education as employees of the Higher Education Policy Commission, nor is the Higher Education Policy Commission responsible or liable for retirement benefits contracted by, or on behalf of, the governing boards or the Council for Community and Technical College Education.
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 ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill approved this the 31st day of November, 2008.

Governor