

HB 2703

FILED

2009 APR 11 PM 3: 02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2703**

(By Delegate Spencer)



Passed April 7, 2009

In Effect Ninety Days from Passage

ENROLLED

FILED

COMMITTEE SUBSTITUTE

2009 APR 11 PM 3: 02

FOR

OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 2703

(BY DELEGATE SPENCER)

[Passed April 7, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §18-7A-3, §18-7A-13, §18-7A-14, §18-7A-23, §18-7A-28c and §18-7A-34 of the Code of West Virginia, 1931, as amended, all relating to State Teachers Retirement System; making technical changes; modifying definitions; specifying cessation of membership; clarifying loan offsets at time of withdrawal; specifying procedures for the correction of errors; permitting rollovers of any dollar amount; and permitting loan borrowers to receive retirement income or disability payments when outstanding loan balance is deducted from the actuarial reserve of accrued benefit.

Be it enacted by the Legislature of West Virginia:

That §18-7A-3, §18-7A-13, §18-7A-14, §18-7A-23, §18-7A-28c and §18-7A-34 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7A, STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-3. Definitions.

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

3 (1) "Accumulated contributions" means all deposits and
4 all deductions from the gross salary of a contributor plus
5 regular interest.

6 (2) "Accumulated net benefit" means the aggregate
7 amount of all benefits paid to or on behalf of a retired
8 member;

9 (3) "Annuities" means the annual retirement payments for
10 life granted beneficiaries in accordance with this article.

11 (4) "Average final salary" means the average of the
12 five highest fiscal year salaries earned as a member
13 within the last fifteen fiscal years of total service credit,
14 including military service as provided in this article, or
15 if total service is less than fifteen years, the average
16 annual salary for the period on which contributions were
17 made.

18 (5) "Beneficiary" means the recipient of annuity
19 payments made under the retirement system.

20 (6) "Contributor" means a member of the retirement
21 system who has an account in the Teachers Accumulation
22 Fund.

23 (7) "Deposit" means a voluntary payment to his or her
24 account by a member.

25 (8) "Employer" means the agency of and within the state
26 which has employed or employs a member.

27 (9) "Employer error" means an omission,
28 misrepresentation, or violation of relevant provisions of the
29 West Virginia Code or of the West Virginia Code of State
30 Regulations or the relevant provisions of both the West
31 Virginia Code and of the West Virginia Code of State
32 Regulations by the participating public employer that has
33 resulted in an underpayment or overpayment of contributions
34 required. A deliberate act contrary to the provisions of this
35 section by a participating public employer does not constitute
36 employer error.

37 (10) "Employment term" means employment for at least ten
38 months, a month being defined as twenty employment days.

39 (11) "Gross salary" means the fixed annual or periodic
40 cash wages paid by a participating public employer to a
41 member for performing duties for the participating public
42 employer for which the member was hired. Gross salary also
43 includes retroactive payments made to a member to correct
44 a clerical error, or made pursuant to a court order or final
45 order of an administrative agency charged with enforcing
46 federal or state law pertaining to the member's rights to
47 employment or wages, with all retroactive salary payments to
48 be allocated to and considered paid in the periods in which
49 the work was or would have been done. Gross salary does
50 not include lump sum payments for bonuses, early retirement
51 incentives, severance pay, or any other fringe benefit of any
52 kind including, but not limited to, transportation allowances,
53 automobiles or automobile allowances, or lump sum
54 payments for unused, accrued leave of any type or character.

55 (12) "Internal Revenue Code" means the Internal
56 Revenue Code of 1986, as it has been amended.

57 (13) "Member" means any person who has accumulated
58 contributions standing to his or her credit in the Teachers
59 Retirement System. A member shall remain a member until
60 the benefits to which he or she is entitled under this article
61 are paid or forfeited, or until cessation of membership
62 pursuant to section thirteen of this article.

63 (14) "Members of the administrative staff of the public
64 schools" means deans of instruction, deans of men, deans of
65 women, and financial and administrative secretaries.

66 (15) "Members of the extension staff of the public
67 schools" means every agricultural agent, boys' and girls' club
68 agent and every member of the agricultural extension staff
69 whose work is not primarily stenographic, clerical or
70 secretarial.

71 (16) "New entrant" means a teacher who is not a present
72 teacher.

73 (17) "Nonteaching member" means any person, except a
74 teacher member, who is regularly employed for full-time
75 service by: (A) Any county board of education, (B) the State
76 Board of Education, (C) the Higher Education Policy
77 Commission, (D) the West Virginia Council for Community
78 and Technical College Education, or (E) a governing board,
79 as defined in section two, article one, chapter eighteen-b of
80 this code: *Provided*. That any person whose employment
81 with the Higher Education Policy Commission, the West
82 Virginia Council for Community and Technical College
83 Education or a governing board commences on or after July
84 1, 1991, is not considered a nonteaching member.

85 (18) "Plan year" means the twelve-month period
86 commencing on July 1 and ending the following June 30 of
87 any designated year.

88 (19) "Present member" means a present teacher who is a
89 member of the retirement system.

90 (20) "Present teacher" means any person who was a
91 teacher within the thirty-five years beginning July 1, 1934,
92 and whose membership in the retirement system is currently
93 active.

94 (21) "Prior service" means all service as a teacher
95 completed prior to July 1, 1941, and all service of a present
96 member who was employed as a teacher, and did not
97 contribute to a retirement account because he or she was
98 legally ineligible for membership during the service.

99 (22) "Public schools" means all publicly supported
100 schools, including colleges and universities in this state.

101 (23) "Refund beneficiary" means the estate of a deceased
102 contributor or a person he or she has nominated as
103 beneficiary of his or her contributions by written designation
104 duly executed and filed with the retirement board.

105 (24) "Refund interest" means interest compounded,
106 according to the formula established in legislative rules,
107 series seven of the Consolidated Public Retirement Board,
108 162 CSR 7.

109 (25) "Regular interest" means interest at four percent
110 compounded annually, or a higher carnable rate if set forth in
111 the formula established in legislative rules, series seven of the
112 Consolidated Public Retirement Board, 162 CSR 7.

113 (26) "Regularly employed for full-time service" means
114 employment in a regular position or job throughout the
115 employment term regardless of the number of hours worked
116 or the method of pay.

117 (27)"Required beginning date" means April 1 of the
118 calendar year following the later of: (A) The calendar year
119 in which the member attains age seventy and one-half years;
120 or (B) the calendar year in which the member retires or
121 ceases covered employment under the system after having
122 attained the age of seventy and one-half years.

123 (28) "Retirement system" means the State Teachers
124 Retirement System established by this article.

125 (29) "Teacher member" means the following persons, if
126 regularly employed for full-time service: (A) Any person
127 employed for instructional service in the public schools of
128 West Virginia; (B) principals; (C) public school librarians;
129 (D) superintendents of schools and assistant county
130 superintendents of schools; (E) any county school attendance
131 director holding a West Virginia teacher's certificate; (F) the
132 executive director of the retirement board; (G) members of
133 the research, extension, administrative or library staffs of the
134 public schools; (H) the State Superintendent of Schools,
135 heads and assistant heads of the divisions under his or her
136 supervision, or any other employee under the State
137 Superintendent performing services of an educational nature;
138 (I) employees of the state Board of Education who are
139 performing services of an educational nature; (J) any person
140 employed in a nonteaching capacity by the State Board of
141 Education, any county board of education, the State
142 Department of Education or the Teachers Retirement Board,
143 if that person was formerly employed as a teacher in the
144 public schools; (K) all classroom teachers, principals and
145 educational administrators in schools under the supervision
146 of the Division of Corrections, the Division of Health or the
147 Division of Human Services; (L) an employee of the state
148 Board of School Finance, if that person was formerly
149 employed as a teacher in the public schools; and (M) any
150 person designated as a 21st Century Learner Fellow pursuant

151 to section eleven, article three, chapter eighteen-a of this code
152 who elects to remain a member of the Teachers Retirement
153 System provided in this article.

154 (30) "Total service" means all service as a teacher while
155 a member of the retirement system since last becoming a
156 member and, in addition thereto, credit for prior service, if
157 any.

158 Age in excess of seventy years shall be considered to be
159 seventy years.

**§18-7A-13. Membership in retirement system; cessation of
membership; reinstatement of withdrawn
service.**

1 The membership of the retirement system shall consist of
2 the following:

3 (a) New entrants, whose membership in the system is
4 compulsory upon employment as teachers and nonteachers.

5 (b) The membership of the retirement system shall not
6 include any person who is an active member of or who has
7 been retired by the West Virginia Public Employees
8 Retirement System, the judge's retirement system, or the
9 retirement system of the West Virginia State Police or the
10 supplemental retirement system as provided in section four-a,
11 article twenty-three of this chapter. The membership of any
12 person in the retirement system ceases:

13 (1) Upon the withdrawal of accumulated contributions
14 after the cessation of service; or (2) upon effective retirement
15 date; or (3) at death; or (4) upon the date, if any, when after
16 the cessation of service, the outstanding balance of any loan
17 obtained by the member pursuant to section thirty-four of this

18 article or section five, article seven-d of this chapter, plus
19 accrued interest, equals or exceeds the member's
20 accumulated contributions.

21 (c) Any former member of the retirement system who has
22 withdrawn accumulated contributions but subsequently
23 reenters the retirement system may repay to the retirement
24 fund the amount withdrawn, plus interest at a rate set by the
25 board, compounded annually from the date of withdrawal to
26 the date of repayment: *Provided*, That no repayment may be
27 made until the former member has completed two years of
28 contributory service after reentry; and the member shall be
29 accorded all the rights to prior service and experience as were
30 held at the time of withdrawal of the accumulated
31 contributions: *Provided, however*, That no withdrawn
32 service may be reinstated that has been transferred to another
33 retirement system from which the member is currently or will
34 in the future draw benefits based on the same service. The
35 interest paid shall be deposited in the reserve fund.

36 (d) No member is eligible for prior service credit unless
37 he or she is eligible for prior service pension, as prescribed
38 by section twenty-two of this article; however, a new entrant
39 who becomes a present teacher as provided in this
40 subdivision shall be considered eligible for prior service
41 pension upon retirement.

42 (e) Any individual who is a leased employee is not
43 eligible to participate in the system. For purposes of this
44 system, a "leased employee" means any individual who
45 performs services as an independent contractor or pursuant to
46 an agreement with an employee leasing organization or other
47 similar organization. If a question arises regarding the status
48 of an individual as a leased employee, the board has final
49 power to decide the question.

§18-7A-14. Contributions by members; contributions by employers; correction of errors.

1 (a) At the end of each month every member of the
2 retirement system shall contribute six percent of that
3 member's monthly gross salary to the retirement board:
4 *Provided*, That any member employed by a state institution
5 of higher education shall contribute on the member's full
6 earnable compensation, unless otherwise provided in section
7 fourteen-a of this article. The sums are due the Teachers
8 Retirement System at the end of each calendar month in
9 arrears and shall be paid not later than fifteen days following
10 the end of the calendar month. Each remittance shall be
11 accompanied by a detailed summary of the sums withheld
12 from the compensation of each member for that month on
13 forms, either paper or electronic, provided by the Teachers
14 Retirement System for that purpose.

15 (b) Annually, the contributions of each member shall be
16 credited to the member's account in the Teachers' Retirement
17 System Fund. The contributions shall be deducted from the
18 salaries of the members as prescribed in this section, and
19 every member shall be considered to have given consent to
20 the deductions. No deductions, however, shall be made from
21 the earnable compensation of any member who retired
22 because of age or service, and then resumed service unless as
23 provided in section thirteen-a of this article.

24 (c) The aggregate of employer contributions, due and
25 payable under this article, shall equal annually the total
26 deductions from the gross salary of members required by this
27 section. Beginning July 1, 1994, the rate shall be seven and
28 one-half percent; beginning July 1, 1995, the rate shall be
29 nine percent; beginning July 1, 1996, the rate shall be ten and
30 one-half percent; beginning July 1, 1997, the rate shall be
31 twelve percent; beginning July 1, 1998, the rate shall be

32 thirteen and one-half percent; and beginning July 1, 1999,
33 and thereafter, the rate shall be fifteen percent: *Provided,*
34 That the rate shall be seven and one-half percent for any
35 individual who becomes a member of the Teachers
36 Retirement System for the first time on or after July 1, 2005,
37 or any individual who becomes a member of the Teachers
38 Retirement System as a result of the voluntary transfer
39 contemplated in article seven-d of this chapter.

40 (d) Payment by an employer to a member of the sum
41 specified in the employment contract minus the amount of
42 the employee's deductions shall be considered to be a full
43 discharge of the employer's contractual obligation as to
44 earnable compensation.

45 (e) Each contributor shall file with the retirement board
46 or with the employer to be forwarded to the retirement board
47 an enrollment form showing the contributor's date of birth
48 and other data needed by the retirement board.

49 (f) If any change or employer error in the records of any
50 participating public employer or the retirement system results
51 in any member receiving from the system more or less than
52 he or she would have been entitled to receive had the records
53 been correct, the board shall correct the error, and as far as is
54 practicable shall adjust the payment of the benefit in a
55 manner that the actuarial equivalent of the benefit to which
56 the member was correctly entitled shall be paid. Any
57 employer error resulting in an underpayment to the retirement
58 system may be corrected by the member remitting the
59 required employee contribution and the participating public
60 employer remitting the required employer contribution.
61 Interest shall accumulate in accordance with the Legislative
62 Rule, Retirement Board Reinstatement Interest, 162 CSR 7,
63 and any accumulating interest owed on the employee and
64 employer contributions resulting from the employer error

65 shall be the responsibility of the participating public
66 employer. The participating public employer may remit total
67 payment and the employee reimburse the participating public
68 employer through payroll deduction over a period equivalent
69 to the time period during which the employer error occurred.

§18-7A-23. Withdrawal and death benefits.

1 (a) Benefits upon withdrawal from service prior to
2 retirement under the provisions of this article shall be as
3 follows:

4 (1) A contributor who withdraws from service for any
5 cause other than death, disability or retirement shall, upon
6 application, be paid his or her accumulated contributions up
7 to the end of the fiscal year preceding the year in which
8 application is made, after offset of any outstanding loan
9 balance, plus accrued interest, pursuant to section thirty-four
10 of this article, but in no event shall interest be paid beyond
11 the end of five years following the year in which the last
12 contribution was made: *Provided*, That the contributor, at
13 the time of application, is then no longer under contract,
14 verbal or otherwise, to serve as a teacher; or

15 (2) If the contributor has completed twenty years of total
16 service, he or she may elect to receive at retirement age an
17 annuity which shall be computed as provided in this article:
18 *Provided*, That if the contributor has completed at least five,
19 but fewer than twenty, years of total service in this state, he
20 or she may elect to receive at age sixty-two an annuity which
21 shall be computed as provided in this article. The contributor
22 must notify the retirement board in writing concerning the
23 election. If the contributor has completed fewer than five
24 years of service in this state, he or she shall be subject to the
25 provisions as outlined in subdivision (1) of this subsection.

26 (b) Benefits upon the death of a contributor prior to
27 retirement under the provisions of this article shall be paid as
28 follows:

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

38 (2) If the facts do not permit payment under subdivision
39 (1) of this subsection, then the following sum shall be paid to
40 the refund beneficiary of the contributor: The contributor's
41 accumulated contributions up to the year of his or her death
42 plus an amount equal to his or her employee contributions.
43 The latter sum shall emanate from the Employer's
44 Accumulation Fund.

§18-7A-28c. Direct rollovers.

1 (a) This section applies to distributions made on or after
2 January 1, 1993. Notwithstanding any provision of this
3 article to the contrary that would otherwise limit a
4 distributee's election under this system, a distributee may
5 elect, at the time and in the manner prescribed by the board,
6 to have any portion of an eligible rollover distribution paid
7 directly to an eligible retirement plan specified by the
8 distributee in a direct rollover. For purposes of this section,
9 the following definitions apply:

10 (1) "Eligible rollover distribution" means any distribution
11 of all or any portion of the balance to the credit of the

12 distributee, except that an eligible rollover distribution does
13 not include any of the following: (A) Any distribution that is
14 one of a series of substantially equal periodic payments not
15 less frequently than annually made for the life or life
16 expectancy of the distributee or the joint lives or the joint life
17 expectancies of the distributee and the distributee's
18 designated beneficiary, or for a specified period of ten years
19 or more; (B) any distribution to the extent the distribution is
20 required under Section 401(a)(9) of the Internal Revenue
21 Code; (C) the portion of any distribution that is not
22 includable in gross income determined without regard to the
23 exclusion for net unrealized appreciation with respect to
24 employer securities; and (D) any hardship distribution
25 described in Section 401(k)(2)(B)(i)(iv) of the Internal
26 Revenue Code. For distributions after December 31, 2001,
27 a portion of a distribution shall not fail to be an eligible
28 rollover distribution merely because the portion consists of
29 after-tax employee contributions which are not includable in
30 gross income. However, this portion may be paid only to an
31 individual retirement account or annuity described in Section
32 408(a) or (b) of the Internal Revenue Code, or to a qualified
33 defined contribution plan described in Section 401(a) or
34 403(a) of the Internal Revenue Code that agrees to separately
35 account for amounts transferred, including separately
36 accounting for the portion of the distribution which is
37 includable in gross income and the portion of the distribution
38 which is not includable.

39 (2) "Eligible retirement plan" means an individual
40 retirement account described in Section 408(a) of the Internal
41 Revenue Code, an individual retirement annuity described in
42 Section 408(b) of the Internal Revenue Code, an annuity plan
43 described in Section 403(a) of the Internal Revenue Code, or
44 a qualified plan described in Section 401(a) of the Internal
45 Revenue Code, that accepts the distributee's eligible rollover
46 distribution: *Provided*, That in the case of an eligible

47 rollover distribution to the surviving spouse, an eligible
48 retirement plan is an individual retirement account or
49 individual retirement annuity. For distributions after
50 December 31, 2001, an eligible retirement plan also means an
51 annuity contract described in Section 403(b) of the Internal
52 Revenue Code and an eligible plan under Section 457(b) of
53 the Internal Revenue Code which is maintained by a state,
54 political subdivision of a state, or any agency or
55 instrumentality of a state or political subdivision of a state
56 and which agrees to separately account for amounts
57 transferred into the plan from this system.

58 (3) "Distributee" means an employee or former
59 employee. In addition, the employee's or former
60 employee's surviving spouse and the employee's or
61 former employee's spouse or former spouse who is the
62 alternate payee under a qualified domestic relations
63 order, as defined in Section 414(p) of the Internal
64 Revenue Code, as applicable to governmental plans, are
65 distributees with regard to the interest of the spouse or
66 former spouse.

67 (4) "Direct rollover" means a payment by the system to
68 the eligible retirement plan.

69 (b) Nothing in this section may be construed as
70 permitting rollovers into this system or any other retirement
71 system administered by the board.

§18-7A-34. Loans to members.

1 (a) An actively contributing member of the retirement
2 system upon written application may borrow from his or her
3 individual account in the Teachers Retirement System,
4 subject to these restrictions:

5 (1) Loans shall be made in multiples of \$10, the minimal
6 loan being \$100 and the maximum being \$8,000: *Provided,*
7 That the maximum amount of any loan when added to the
8 outstanding balance of all other loans granted under this
9 section shall not exceed the lesser of the following: (A)
10 \$8,000 reduced by the excess, if any, of the highest
11 outstanding balance of loans during the one-year period
12 ending on the day before the date on which the loan is made,
13 over the outstanding balance of loans to the member on the
14 date on which the loan is made; or (B) fifty percent of the
15 member's contributions to his or her individual account in the
16 Teachers Retirement System: *Provided, however,* That if the
17 total amount of loaned money outstanding exceeds \$40
18 million, the maximum shall not exceed \$3,000 until the
19 retirement board determines that loans outstanding have been
20 reduced to an extent that additional loan amounts are again
21 authorized: *Provided further,* That the amount of any loan
22 made pursuant to article seven-d of this chapter is not
23 included for the purposes of determining if the \$40 million
24 threshold has been exceeded.

25 (2) Interest charged on the amount of the loan shall be six
26 percent per annum, or a higher rate as set by the board:
27 *Provided,* That interest charged shall be commercially
28 reasonable in accordance with the provisions of Section
29 72(p)(2) of the Internal Revenue Code, and the federal
30 regulations issued thereunder. If repayable in installments,
31 the interest shall not exceed the annual rate so established
32 upon the principal amount of the loan, for the entire period of
33 the loan, and the charge shall be added to the principal
34 amount of the loan. The minimal interest charge shall be for
35 six months.

36 (3) No member is eligible for more than one outstanding
37 loan at any time: *Provided,* That the foregoing provision
38 does not apply to any loan made pursuant to article seven-d

39 of this chapter. Upon full payment of a loan, a member may
40 apply for a subsequent loan after sixty days beginning the
41 first day of the month following receipt of final payment.

42 (4) If a refund of accumulated contributions is payable to
43 the borrower or his or her beneficiary before he or she repays
44 the loan with interest, the balance due with interest to date
45 shall be deducted from the refund. A member with an unpaid
46 loan balance who wishes to retire or becomes eligible to
47 receive disability benefits under any provision of this article
48 may have the loan repaid in full by accepting retirement
49 income or disability payments reduced by deducting from the
50 actuarial reserve for the accrued benefit the amount of the
51 unpaid balance plus accrued interest, if any, and then
52 converting the remaining of the reserve to a monthly pension
53 or disability benefit payable in the form of the annuity
54 desired by the member.

55 (5) From his or her monthly salary as a teacher or a
56 nonteacher the member shall pay the loan and interest by
57 deductions which will pay the loan and interest in
58 substantially level payments in not more than sixty nor less
59 than six months. Upon notice of loan granted and payment
60 due, the employer is responsible for making the salary
61 deductions and reporting them to the retirement board. At
62 the option of the board, loan deductions may be collected as
63 prescribed herein for the collection of members' contribution,
64 or may be collected through issuance of warrant by employer.
65 If the borrower is no longer employed as a teacher or
66 nonteaching member, the borrower must make monthly loan
67 payments directly to the Consolidated Public Retirement
68 Board and the board must accept the payments.

69 (6) The entire unpaid balance of any loan, and interest
70 due thereon, shall, at the option of the board, become due and
71 payable without further notice or demand upon the

72 occurrence with respect to the borrowing member of any of
73 the following events of default: (A) Any payment of
74 principal and accrued interest on a loan remains unpaid after
75 it becomes due and payable under the terms of the loan or
76 after the grace period established in the discretion of the
77 board; (B) the borrowing member attempts to make an
78 assignment for the benefit of creditors of his or her refund or
79 benefit under the retirement system; or (C) any other event of
80 default set forth in rules promulgated by the board in
81 accordance with the authority granted pursuant to section
82 one, article ten-d, chapter five of this code: *Provided*, That
83 any refund or offset of an unpaid loan balance shall be made
84 only at the time the member is entitled to receive a
85 distribution under the retirement system.

86 (7) Loans shall be evidenced by such form of obligations
87 and shall be made upon such additional terms as to default,
88 prepayment, security, and otherwise as the board determines.

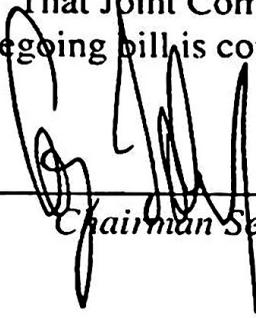
89 (8) Notwithstanding anything herein to the contrary, the
90 loan program authorized by this section shall comply with the
91 provisions of Section 72(p)(2) and Section 401 of the Internal
92 Revenue Code, and the federal regulations issued thereunder,
93 and accordingly, the retirement board is authorized to: (A)
94 Apply and construe the provisions of this section and
95 administer the plan loan program in such a manner as to
96 comply with the provisions of Section 72(p)(2) and Section
97 401 of the Internal Revenue Code and the federal regulations
98 issued thereunder; (B) adopt plan loan policies or procedures
99 consistent with these federal law provisions; and (C) take
100 such actions as it considers necessary or appropriate to
101 administer the plan loan program created hereunder in
102 accordance with these federal law provisions. The retirement
103 board is further authorized in connection with the plan loan
104 program to take any actions that may at any time be required
105 by the Internal Revenue Service regarding compliance with

106 the requirements of Section 72(p)(2) or Section 401 of the
107 Internal Revenue Code, and the federal regulations issued
108 thereunder, notwithstanding any provision in this article to
109 the contrary.

110 (b) Notwithstanding anything in this article to the
111 contrary, the loan program authorized by this section shall
112 not be available to any teacher or nonteacher who becomes
113 a member of the Teachers Retirement System on or after July
114 1, 2005: *Provided*, That a member is eligible for a loan
115 under article seven-d of this chapter to pay all or part of the
116 Actuarial Reserve, or if available in accordance with the
117 provisions of subsection (d), section six, article seven-d of
118 this chapter, the one and one-half percent contribution for
119 service in the Teachers' Defined Contribution System for the
120 purpose of receiving additional service credit in the State
121 Teachers Retirement System pursuant to section six, article
122 seven-d, of this chapter.

123 (c) A member who ceases service with an unpaid loan
124 balance will no longer be a member when the unpaid loan
125 balance, plus accrued interest, equals or exceeds the
126 member's accumulated contributions.

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



Chairman Senate Committee



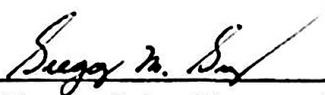
Chairman House Committee

Originating in the House.

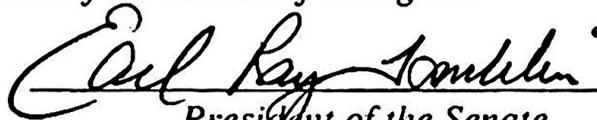
In effect ninety days from passage.



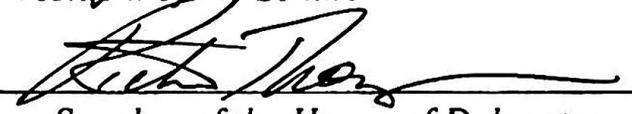
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 17th
day of April 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 9 2009

Time

4:20 pm