

HB 2870

FILED

2009 APR 24 PM 1:50

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2870**

(By Delegates Paxton, Stowers, Perry, Caputo, Boggs,
Pethel, Fragale, M. Poling, Duke, Campbell and Spencer)



Passed April 11, 2009

In Effect from Passage

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H. B. 2870

**(BY DELEGATES PAXTON, STOWERS, PERRY, CAPUTO, BOGGS,
PETHTEL, FRAGALE, M. POLING, DUKE, CAMPBELL AND SPENCER)**

[Passed April 11, 2009; in effect from passage.]

AN ACT to amend and reenact §18-7D-5 and §18-7D-6 of the Code of West Virginia, 1931, as amended, relating to extending the deadline of the buyback provision provided under the Teachers' Defined Contribution Retirement System to the State Teachers Retirement System; and similarly extending the time for loans for such buyback.

Be it enacted by the Legislature of West Virginia:

That §18-7D-5 and §18-7D-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

03:1 §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 to any
42 member who has provided to the board by the effective date
43 of the amendments to this section enacted in the 2009 regular
44 legislative session a signed verification of cost for service
45 credit purchase form until the thirtieth day of June, two
46 thousand nine, or no later than ninety days after the
47 postmarked date on a final and definitive contribution
48 calculation from the board, whichever is later.

49 (c) The board shall develop and institute a payroll
50 deduction program for repayment of the loan established in
51 this section.

52 (d) If at least sixty-five percent of actively contributing
53 members of the Teachers' Defined Contribution Retirement
54 System affirmatively elect to transfer to the State Teachers
55 Retirement System within the period provided in section
56 seven of this article:

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

61 (2) All transferred members who work one hour or more
62 and who make a contribution into the State Teachers
63 Retirement System on or after the first day of July, two
64 thousand eight, are governed by the provisions of article
65 seven-a of this chapter, subject to the provisions of this
66 article.

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

75 (1) A member may repay those amounts he or she
76 previously cashed out or withdrew, along with interest as
77 determined by the board, and receive the same credit as if the
78 withdrawal or cash-out never occurred. To receive full credit
79 for the cashed-out or withdrawn amounts being repaid to the
80 State Teachers Retirement System, the member also shall pay
81 the actuarial reserve, or the one and one-half percent
82 contribution, as the case may be, pursuant to section six of
83 this article.

84 (2) The loan provided in this section is not available to
85 members to repay previously cashed out or withdrawn
86 moneys.

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

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

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

101 (h) The board shall take all necessary steps to see that the
102 voluntary transfers of persons and assets authorized by this
103 article do not affect the qualified status with the Internal
104 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 subsection (c) 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) More than seventy-five percent of actively
17 contributing members of the Teachers' Defined Contribution
18 Retirement System affirmatively elected to transfer to the
19 State Teachers Retirement System within the period provided
20 in section seven of this article. Therefore, any member of the
21 Defined Contribution Retirement System who decides to
22 transfer to the State Teachers Retirement System, calculates
23 his or her service credit in the State Teachers Retirement
24 System 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, members
34 who affirmatively elected to transfer and who provided to the
35 board a signed verification of cost for service credit purchase
36 form by the effective date of the amendments to this section
37 enacted in the 2009 regular legislative session shall pay into
38 the State Teachers Retirement System a one and one-half
39 percent contribution by no later than June 30, 2009, or no
40 later than ninety days after the postmarked date on a final and
41 definitive contribution calculation from the board, whichever
42 is later. This contribution shall be calculated as one and
43 one-half percent of the member's estimated total earnings for
44 which assets are transferred, plus interest of four percent per
45 annum accumulated from the date of the member's initial
46 participation in the Defined Contribution Retirement System
47 through June 30, 2009.

48 (A) For a member contributing to the Defined
49 Contribution Retirement System at any time during the 2008
50 fiscal year and commencing membership in the State
51 Teachers Retirement System on July 1, 2008, or August 1,
52 2008, as the case may be:

53 (i) The estimated total earnings shall be calculated based
54 on the member's salary and the member's age nearest birthday
55 on June 30, 2008;

56 (ii) This calculation shall apply both an annual backward
57 salary scale from that date for prior years' salaries and a
58 forward salary scale for the salary for the 2008 fiscal year.

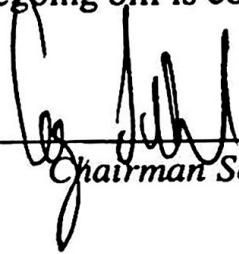
59 (B) The calculations in paragraph (A) of this subdivision
60 are based upon the salary scale assumption applied in the
61 West Virginia Teachers Retirement System actuarial
62 valuation as of July 1, 2007, prepared for the Consolidated
63 Public Retirement Board. This salary scale shall be applied
64 regardless of breaks in service.

65 (d) All service previously transferred from the State
66 Teachers Retirement System to the Teachers' Defined
67 Contribution Retirement System is considered Teachers'
68 Defined Contribution Retirement System service for the
69 purposes of this article.

70 (e) Notwithstanding any provision of this code to the
71 contrary, the retirement of a member who becomes eligible
72 to retire after the member's assets are transferred to the State
73 Teachers Retirement System pursuant to the provisions of
74 this article may not commence prior to September 1, 2008:
75 *Provided*, That the Consolidated Public Retirement Board
76 may not retire any member who is eligible to retire during the
77 calendar year 2008 unless the member has provided a written
78 notice to his or her county board of education by July 1,
79 2008, of his or her intent to retire.

80 (f) The provisions of section twenty-eight-e, article
81 seven-a of this chapter do not apply to the amendments to
82 this section enacted during the 2009 regular legislative
83 session.

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



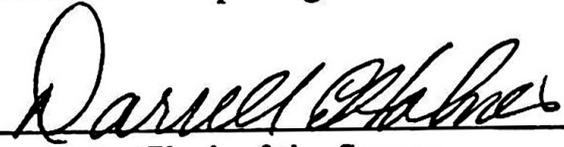
Chairman Senate Committee



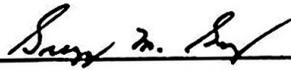
Chairman House Committee

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 approved this the 22nd
day of April, 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 22 2009

Time 9:35 am