WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 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.
§18-7D-5. Conversion of assets from Defined Contribution Retirement System to State Teachers Retirement System; contributions; loans.

(a) If at least sixty-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System affirmatively elect to transfer to the State Teachers Retirement System within the period provided in section seven of this article, then the Consolidated Public Retirement Board shall transfer the members and all properties held in the Teachers’ Defined Contribution Retirement System’s Trust Fund in trust for those members who affirmatively elected to do so during that period to the State Teachers Retirement System, effective on the first day of July, two thousand eight: Provided, That the board shall, for any member whose election to transfer was received by the board after the twelfth day of May, two thousand eight, but on or before the twentieth day of May, two thousand eight, and has not been certified as accepted by the board on or before the effective date of the amendments to this section enacted during the second extraordinary session of the Legislature, two thousand eight, effectuate the transfer as provided in this subsection on the first day of August, two thousand eight.

(b) The board shall make available to each member a loan for the purpose of paying all or part of the Actuarial Reserve, or if available in accordance with the provisions of subsection (d), section six of this article, the one and one-half percent contribution for service in the Teachers’ Defined Contribution System to receive additional service credit in the State Teachers Retirement System for service in the Teachers’ Defined Contribution Retirement System pursuant to section six of this article. The loan shall be offered in accordance with the provisions of section thirty-four, article seven-a of this chapter.
(1) Notwithstanding any provision of this code, rule or policy of the board to the contrary, the interest rate on any loan may not exceed seven and one-half percent per annum. The total amount borrowed may not exceed forty thousand dollars: Provided, That the loan may not exceed the limitations of the Internal Revenue Code Section 72(p).

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

(3) The board shall make this loan available to any member who has provided to the board by the effective date of the amendments to this section enacted in the 2009 regular legislative session a signed verification of cost for service credit purchase form until the thirtieth day of June, two thousand nine, or no later than ninety days after the postmarked date on a final and definitive contribution calculation from the board, whichever is later.

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

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

(1) As of the first day of July, two thousand eight, or the first day of August, two thousand eight, as the case may be, the transferred members’ contribution rate becomes six percent of his or her salary or wages; and
(2) All transferred members who work one hour or more and who make a contribution into the State Teachers Retirement System on or after the first day of July, two thousand eight, are governed by the provisions of article seven-a of this chapter, subject to the provisions of this article.

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

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

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

(3) If the repayment occurs five or more years following the cash-out or withdrawal, the member also shall repay any forfeited employer contribution account balance along with interest determined by the board.
(f) Notwithstanding any provision of subsection (e) to the contrary, if a member has cashed out or withdrawn any of his or her assets after the last day of June, two thousand three, and that member chooses to repurchase that service after the thirtieth day of June, two thousand eight, the member shall repay the previously distributed amounts and any applicable interest to the State Teachers Retirement System.

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

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

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

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

(b) Any such member who has made withdrawals or cash-outs will receive service credit based upon the amounts transferred. The board shall make the appropriate adjustment to the service credit the member will receive.
(c) More than seventy-five percent of actively contributing members of the Teachers' Defined Contribution Retirement System affirmatively elected to transfer to the State Teachers Retirement System within the period provided in section seven of this article. Therefore, any member of the Defined Contribution Retirement System who decides to transfer to the State Teachers Retirement System, calculates his or her service credit in the State Teachers Retirement System as follows:

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

(2) To receive full credit in the State Teachers Retirement System for service in the Teachers' Defined Contribution Retirement System for which assets are transferred, members who affirmatively elected to transfer and who provided to the board a signed verification of cost for service credit purchase form by the effective date of the amendments to this section enacted in the 2009 regular legislative session shall pay into the State Teachers Retirement System a one and one-half percent contribution by no later than June 30, 2009, or no later than ninety days after the postmarked date on a final and definitive contribution calculation from the board, whichever is later. This contribution shall be calculated as one and one-half percent of the member's estimated total earnings for which assets are transferred, plus interest of four percent per annum accumulated from the date of the member's initial participation in the Defined Contribution Retirement System through June 30, 2009.
(A) For a member contributing to the Defined Contribution Retirement System at any time during the 2008 fiscal year and commencing membership in the State Teachers Retirement System on July 1, 2008, or August 1, 2008, as the case may be:

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

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

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

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

(e) Notwithstanding any provision of this code to the contrary, the retirement of a member who becomes eligible to retire after the member's assets are transferred to the State Teachers Retirement System pursuant to the provisions of this article may not commence prior to September 1, 2008: Provided, That the Consolidated Public Retirement Board may not retire any member who is eligible to retire during the calendar year 2008 unless the member has provided a written notice to his or her county board of education by July 1, 2008, of his or her intent to retire.
(f) The provisions of section twenty-eight-e, article seven-a of this chapter do not apply to the amendments to this section enacted during the 2009 regular legislative 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 12th day of April, 2009.

Governor
PRESENTED TO THE GOVERNOR

APR 22 2009

Time 9:35 AM