

SB 244
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OFFICE OF WEST VIRGINIA
CLERK OF STATE

WEST VIRGINIA LEGISLATURE

SEVENTY-NINTH LEGISLATURE

REGULAR SESSION, 2009



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 244

**(BY SENATORS TOMBLIN (MR. PRESIDENT) AND
CARUTH, BY REQUEST OF THE EXECUTIVE)**

[Passed April 9, 2009; in effect ninety days from passage.]

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SECRETARY OF STATE

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FOR

Senate Bill No. 244

(BY SENATORS TOMBLIN (MR. PRESIDENT) AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed April 9, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended, relating to public employees' reemployment after retirement; and providing for restrictions for holders of elected public office.

Be it enacted by the Legislature of West Virginia:

That §5-10-48 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-48. Reemployment after retirement; options for holder of elected public office.

1 (a) The Legislature finds that a compelling state
2 interest exists in maintaining an actuarially sound retire-
3 ment system and that this interest necessitates that certain
4 limitations be placed upon an individual's ability to retire
5 from the system and to then later return to state employ-
6 ment as an employee with a participating public employer
7 while contemporaneously drawing an annuity from the
8 system. The Legislature hereby further finds and declares
9 that the interests of the public are served when persons
10 having retired from public employment are permitted,
11 within certain limitations, to render post-retirement
12 employment in positions of public service, either in elected
13 or appointed capacities. The Legislature further finds and
14 declares that it has the need for qualified employees and
15 that in many cases an employee of the Legislature will
16 retire and be available to return to work for the Legisla-
17 ture as a per diem employee. The Legislature further finds
18 and declares that in many instances these employees have
19 particularly valuable expertise which the Legislature
20 cannot find elsewhere. The Legislature further finds and
21 declares that reemploying these persons on a limited per
22 diem basis after they have retired is not only in the best
23 interests of this state, but has no adverse effect whatsoever
24 upon the actuarial soundness of this particular retirement
25 system.

26 (b) For the purposes of this section: (1) "Regularly
27 employed on a full-time basis" means employment of an
28 individual by a participating public employer, in a posi-
29 tion other than as an elected or appointed public official,
30 which normally requires twelve months per year service
31 and/or requires at least one thousand forty hours of
32 service per year in that position; (2) "temporary full-time
33 employment or temporary part-time employment" means
34 employment of an individual on a temporary or provi-
35 sional basis by a participating public employer, other than
36 as an elected or appointed public official, in a position

37 which does not otherwise render the individual as regu-
38 larly employed; (3) "former employee of the Legislature"
39 means any person who has retired from employment with
40 the Legislature and who has at least ten years' contribut-
41 ing service with the Legislature; and (4) "reemployed by
42 the Legislature" means a former employee of the Legisla-
43 ture who has been reemployed on a per diem basis not to
44 exceed one hundred seventy-five days per calendar year.

45 (c) In the event a retirant becomes regularly employed
46 on a full-time basis by a participating public employer,
47 payment of his or her annuity shall be suspended during
48 the period of his or her reemployment and he or she shall
49 become a contributing member to the retirement system.
50 If his or her reemployment is for a period of one year or
51 longer, his or her annuity shall be recalculated and he or
52 she shall be granted an increased annuity due to such
53 additional employment, said annuity to be computed
54 according to section twenty-two of this article. A retirant
55 may accept temporary full-time or temporary part-time
56 employment from a participating employer without
57 suspending his or her retirement annuity so long as he or
58 she does not receive annual compensation in excess of
59 \$15,000: *Provided*, That a retirant may be employed by the
60 Legislature on a per diem basis without suspension of the
61 retirement annuity if the retirant's annual compensation
62 from the Legislature does not exceed \$20,000.

63 (d) In the event a member retires and is then subse-
64 quently elected to a public office or is subsequently
65 appointed to hold an elected public office, or is a former
66 employee of the Legislature who has been reemployed by
67 the Legislature, he or she has the option, notwithstanding
68 subsection (c) of this section, to either:

69 (1) Continue to receive payment of his or her annuity
70 while holding such public office or during any
71 reemployment of a former employee of the Legislature on

72 a per diem basis, in addition to the salary he or she may be
73 entitled to as such office holder or as a per diem
74 reemployed former employee of the Legislature; or

75 (2) Suspend the payment of his or her annuity and
76 become a contributing member of the retirement system as
77 provided in subsection (c) of this section. Notwithstanding
78 the provisions of this subsection, a member who is partici-
79 pating in the system as an elected public official may not
80 retire from his or her elected position and commence to
81 receive an annuity from the system and then be elected or
82 reappointed to the same position unless and until a
83 continuous twelve-month period has passed since his or
84 her retirement from the position: *Provided*, That a former
85 employee of the Legislature may not be reemployed by the
86 Legislature on a per diem basis until at least sixty days
87 after the employee has retired: *Provided, however*, That
88 the limitation on compensation provided by subsection (c)
89 of this section does not apply to the reemployed former
90 employee: *Provided further*, That in no event may
91 reemployment by the Legislature of a per diem employee
92 exceed one hundred seventy-five days per calendar year.

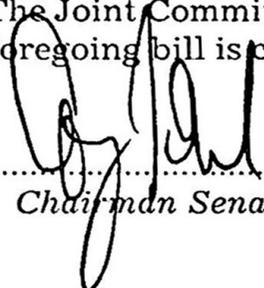
93 (e) A member who is participating in the system
94 simultaneously as both a regular, full-time employee of a
95 participating public employer and as an elected or ap-
96 pointed member of the legislative body of the state or any
97 political subdivision may, upon meeting the age and
98 service requirements of this article, elect to retire from his
99 or her regular full-time state employment and may
100 commence to receive an annuity from the system without
101 terminating his or her position as a member of the legisla-
102 tive body of the state or political subdivision: *Provided*,
103 That the retired member shall not, during the term of his
104 or her retirement and continued service as a member of the
105 legislative body of a political subdivision, be eligible to
106 continue his or her participation as a contributing member
107 of the system and shall not continue to accrue any addi-

108 tional service credit or benefits in the system related to the
109 continued service.

110 (f) Notwithstanding the provisions of section twenty-
111 seven-b of this article, any publicly elected member of the
112 legislative body of any political subdivision or of the State
113 Legislature, the Clerk of the House of Delegates and the
114 Clerk of the Senate may elect to commence receiving in-
115 service retirement distributions from this system upon
116 attaining the age of seventy and one-half years: *Provided,*
117 That the member is eligible to retire under the provisions
118 of section twenty or twenty-one of this article: *Provided,*
119 *however,* That the member elects to stop actively contrib-
120 uting to the system while receiving such in-service distri-
121 butions.

122 (g) The provisions of section twenty-two-h of this
123 article are not applicable to the amendments made to this
124 section during the 2006 regular session.

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

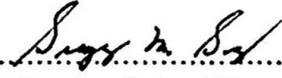

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Chairman Senate Committee

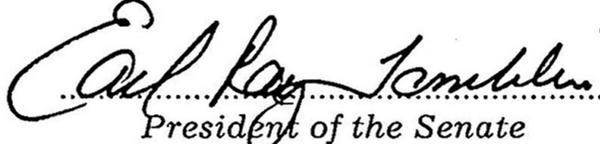

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 8th
Day of May, 2009.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 5 2009

Time 11:05 am