

HB 2469

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013



ENROLLED

House Bill No. 2469

(By Delegate(s) Perry, Staggers, Swartzmiller,
Walker, Barill and Williams)



Passed April 13, 2013

In effect ninety days from passage.

2013 APR 30 PM 2:45
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E N R O L L E D

H. B. 2469

(BY DELEGATE(S) PERRY, STAGGERS, SWARTZMILLER,
WALKER, BARILL AND WILLIAMS)

[Passed April 13, 2013: 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 increasing the cap on earnings during temporary reemployment after retirement.

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 interest
- 2 exists in maintaining an actuarially sound retirement system and
- 3 that this interest necessitates that certain limitations be placed
- 4 upon an individual's ability to retire from the system and to then

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

23 (b) For the purposes of this section: (1) "Regularly employed
24 on a full-time basis" means employment of an individual by a
25 participating public employer, in a position other than as an
26 elected or appointed public official, which normally requires
27 twelve months per year service and at least one thousand forty
28 hours of service per year in that position; (2) "temporary
29 full-time employment or temporary part-time employment"
30 means employment of an individual on a temporary or
31 provisional basis by a participating public employer, other than
32 as an elected or appointed public official, in a position which
33 does not otherwise render the individual as regularly employed;
34 (3) "former employee of the Legislature" means any person who
35 has retired from employment with the Legislature and who has
36 at least ten years' contributing service with the Legislature; and
37 (4) "reemployed by the Legislature" means a former employee
38 of the Legislature who has been reemployed on a per diem basis
39 not to exceed one hundred seventy-five days per calendar year.

40 (c) In the event a retirant becomes regularly employed on a
41 full-time basis by a participating public employer, payment of
42 his or her annuity shall be suspended during the period of his or
43 her reemployment and he or she shall become a contributing
44 member to the retirement system. If his or her reemployment is
45 for a period of one year or longer, his or her annuity shall be
46 recalculated and he or she shall be granted an increased annuity
47 due to the additional employment, the annuity to be computed
48 according to section twenty-two of this article. A retirant may
49 accept legislative per diem, temporary full-time or temporary
50 part-time employment from a participating employer without
51 suspending his or her retirement annuity so long as he or she
52 does not receive annual compensation in excess of \$20,000.

53 (d) In the event a member retires and is then subsequently
54 elected to a public office or is subsequently appointed to hold an
55 elected public office, or is a former employee of the Legislature
56 who has been reemployed by the Legislature, he or she has the
57 option, notwithstanding subsection (c) of this section, to either:

58 (1) Continue to receive payment of his or her annuity while
59 holding public office or during any reemployment of a former
60 employee of the Legislature on a per diem basis, in addition to
61 the salary he or she may be entitled to as an office holder or as
62 a per diem reemployed former employee of the Legislature; or

63 (2) Suspend the payment of his or her annuity and become
64 a contributing member of the retirement system as provided in
65 subsection (c) of this section. Notwithstanding the provisions of
66 this subsection, a member who is participating in the system as
67 an elected public official may not retire from his or her elected
68 position and commence to receive an annuity from the system
69 and then be elected or reappointed to the same position unless
70 and until a continuous twelve-month period has passed since his
71 or her retirement from the position: *Provided*, That a former
72 employee of the Legislature may not be reemployed by the
73 Legislature on a per diem basis until at least sixty days after the

74 employee has retired: *Provided, however,* That the limitation on
75 compensation provided by subsection (c) of this section does not
76 apply to the reemployed former employee: *Provided further,*
77 That in no event may reemployment by the Legislature of a per
78 diem employee exceed one hundred seventy-five days per
79 calendar year.

80 (e) A member who is participating in the system
81 simultaneously as both a regular, full-time employee of a
82 participating public employer and as an elected or appointed
83 member of the legislative body of the state or any political
84 subdivision may, upon meeting the age and service requirements
85 of this article, elect to retire from his or her regular full-time
86 state employment and may commence to receive an annuity from
87 the system without terminating his or her position as a member
88 of the legislative body of the state or political subdivision:
89 *Provided,* That the retired member shall not, during the term of
90 his or her retirement and continued service as a member of the
91 legislative body of a political subdivision, be eligible to continue
92 his or her participation as a contributing member of the system
93 and shall not continue to accrue any additional service credit or
94 benefits in the system related to the continued service.

95 (f) Notwithstanding the provisions of section twenty-seven-b
96 of this article, any publicly elected member of the legislative
97 body of any political subdivision or of the State Legislature, the
98 Clerk of the House of Delegates and the Clerk of the Senate may
99 elect to commence receiving in-service retirement distributions
100 from this system upon attaining the age of seventy and one-half
101 years: *Provided,* That the member is eligible to retire under the
102 provisions of section twenty or twenty-one of this article:
103 *Provided, however,* That the member elects to stop actively
104 contributing to the system while receiving the in-service
105 distributions.

106 (g) The provisions of section twenty-two-h of this article are
107 not applicable to the amendments made to this section during the
108 2006 Regular Session.

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

Sammy Wells

Chairman, House Committee

Member *Paul Ferguson*
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Suzanne M. Smith
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

[Signature]
Speaker of the House of Delegates

Jeffery V. F.
President of the Senate

2013 APR 30 PM 2:45
OFFICE OF THE CLERK OF THE SENATE

The within *is approved* this the *30th*
day of *April*, 2013.

Carl Ray Tompkins
Governor

PRESENTED TO THE GOVERNOR

APR 29 2013

Time 2:10 pm