

SB403

WEST VIRGINIA LEGISLATURE
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REGULAR SESSION, 2013



ENROLLED

Senate Bill No. 403

(BY SENATORS PALUMBO, CHAFIN AND
(KESSLER (MR. PRESIDENT)))

[PASSED APRIL 13, 2013; IN EFFECT FROM PASSAGE.]

SECRETARY OF STATE

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Senate Bill No. 403

(BY SENATORS PALUMBO, CHAFIN AND KESSLER
(MR. PRESIDENT))

[Passed April 13, 2013; in effect from passage.]

AN ACT to amend and reenact §51-9-4 of the Code of West Virginia, 1931, as amended, relating to the judicial retirement system; reducing the contribution rate of judges; authorizing the Consolidated Public Retirement Board to annually establish future participant contribution rates based on the State Actuary's report; requiring certain reporting to the Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement; and limiting the participant contribution rate to no more than ten and one-half percent and no less than seven percent of a participant's salary.

Be it enacted by the Legislature of West Virginia:

That §51-9-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF RECORD.

§51-9-4. Required percentage contributions from salaries; any termination of required contributions prior to actual retirement disallowed; leased employees; military service credit; maximum allowable and qualified military service; qualifiable prosecutorial service.

1 (a) Every person who is now serving or shall hereafter
2 serve as a judge of any court of record of this state shall pay
3 into the Judges' Retirement Fund six percent of the salary
4 received by such person out of the State Treasury: *Provided*,
5 That when a judge becomes eligible to receive benefits from
6 such trust fund by actual retirement, no further payment by
7 him or her shall be required, since such employee
8 contribution, in an equal treatment sense, ceases to be
9 required in the other retirement systems of the state, also,
10 only after actual retirement: *Provided, however*, That on and
11 after January 1, 1995, every person who is then serving or
12 shall thereafter serve as a judge of any court of record in this
13 state shall pay into the Judges' Retirement Fund nine percent
14 of the salary received by that person: *Provided further*, That
15 consistent with the salary increase granted to judges of courts
16 of record during the 2005 regular legislative session and to
17 changes effectuated in judicial retirement by provisions
18 enacted during the third extraordinary legislative session of
19 2005, on and after July 1, 2005, every person who is then
20 serving or shall thereafter serve as a judge of any court of
21 record in this state shall pay into the Judges' Retirement
22 Fund ten and one-half percent of the salary received by that
23 person: *And provided further*, That on and after July 1, 2013,
24 except as provided in subsection (b) of this section, every
25 person who is then serving or shall thereafter serve as a judge
26 of any court of record in this state and who elects to
27 participate in this retirement system shall pay into the
28 Judges' Retirement Fund seven percent of the salary
29 received. Any prior occurrence or practice to the contrary, in
30 any way allowing discontinuance of required employee
31 contributions prior to actual retirement under this retirement
32 system, is rejected as erroneous and contrary to legislative
33 intent and as violative of required equal treatment and is
34 hereby nullified and discontinued fully, with the State
35 Auditor to require such contribution in every instance

36 hereafter, except where no contributions are required to be
37 made under any of the provisions of this article.

38 (b) On and after July 1, 2014, every person who is
39 serving or shall hereafter serve as a judge of any court of
40 record of this state and who elects to participate in this
41 retirement system shall contribute to the fund an amount
42 determined by the board. This amount will be based on the
43 annual actuarial valuation prepared by the State Actuary:
44 *Provided*, That the contribution will be no less than seven
45 percent or no more than ten and one-half percent of the
46 participant's annual compensation.

47 (c) On or after July 1, 2013, and each year thereafter, the
48 annual actuarial valuation prepared by the State Actuary for
49 determination of all participants' contributions and the
50 annual actuarially required contribution prepared by the State
51 Actuary for use by the courts of this state for legislative
52 appropriation shall be provided to the Legislature's Joint
53 Committee on Government and Finance and the Joint
54 Committee on Pensions and Retirement.

55 (d) An individual who is a leased employee shall not be
56 eligible to participate in the system. For purposes of this
57 system, a "leased employee" means any individual who
58 performs services as an independent contractor or pursuant
59 to an agreement with an employee leasing organization or
60 other similar organization. If a question arises regarding the
61 status of an individual as a leased employee, the board has
62 the final power to decide the question.

63 (e) In drawing warrants for the salary checks of judges,
64 the State Auditor shall deduct from the amount of each such
65 salary check six percent thereof, which amount so deducted
66 shall be credited by the Consolidated Public Retirement

67 Board to the trust fund: *Provided*, That on or after January 1,
68 1995, the amount so deducted and credited shall be nine
69 percent of each such salary check: *Provided, however*, That
70 consistent with the salary increase granted to judges of courts
71 of record during the 2005 regular legislative session and to
72 changes effectuated in judicial retirement by provisions
73 enacted during the third extraordinary legislative session of
74 2005, on or after July 1, 2005, the amount so deducted and
75 credited shall be ten and one-half percent of each such salary
76 check: *Provided further*, That on and after July 1, 2013,
77 except as provided in subsection (b) of this section, the
78 amount so deducted and credited shall be seven percent of
79 each salary check: *And provided further*, That on and after
80 July 1, 2014, the amount so deducted and credited will be
81 determined by the board.

82 (f) Any judge seeking to qualify military service to be
83 claimed as credited service, in allowable aggregate maximum
84 amount up to five years, shall be entitled to be awarded the
85 same without any required payment in respect thereof to the
86 Judges' Retirement Fund.

87 (g) Notwithstanding the preceding provisions of this
88 section, contributions, benefits and service credit with respect
89 to qualified military service shall be provided in accordance
90 with Section 414(u) of the Internal Revenue Code. For
91 purposes of this section, "qualified military service" has the
92 same meaning as in Section 414(u) of the Internal Revenue
93 Code. The Retirement Board is authorized to determine all
94 questions and make all decisions relating to this section and
95 may promulgate rules relating to contributions, benefits and
96 service credit pursuant to the authority granted to the
97 retirement board in section one, article ten-d, chapter five of
98 this code to comply with Section 414(u) of the Internal
99 Revenue Code.

100 (h) Any judge holding office as such on the effective date
101 of the amendments to this article adopted by the Legislature
102 at its 1987 regular session who seeks to qualify service as a
103 prosecuting attorney as credited service, which service credit
104 must have been earned prior to the year 1987, shall be
105 required to pay into the Judges' Retirement Fund nine
106 percent of the annual salary which was actually received by
107 such person as prosecuting attorney during the time such
108 prosecutorial service was rendered prior to the year 1987 and
109 for which credited service is being sought, together with
110 applicable interest. No judge whose term of office shall
111 commence after the effective date of such amendments to
112 this article shall be eligible to claim any credit for service
113 rendered as a prosecuting attorney as eligible service for
114 retirement benefits under this article, nor shall any time
115 served as a prosecutor after the year 1988 be considered as
116 eligible service for any purposes of this article.

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

[Signature]
.....
member ~~Chairman~~ Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

The within *is approved* this the *2nd*
May
Day of, 2013.

[Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 1:45 pm