WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

ENROLLED

House Bill No. 4365

(By Delegates Pethtel, Jones, Canterbury, Kump, Craig, Lynch and Ellem)
(By Request of the Consolidated Public Retirement Board)

Passed March 5, 2014

In effect ninety days from passage.
ENROLLED

H. B. 4365

(BY DELEGATES PETHTEL, JONES, CANTERBURY, KUMP, CRAIG, LYNCH AND ELLEM)

[By Request of the Consolidated Public Retirement Board]

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AN ACT to amend and reenact §18-7A-14, §18-7A-17, §18-7A-18 and §18-7A-18a of the Code of West Virginia, 1931, as amended, all relating to employer remittance and reporting of Teachers Retirement System member contributions to the retirement board; providing procedure for contributions by members and employers; requiring payment of compounded interest by members of the Public Employees Retirement System when granting service credit in the Teachers Retirement System; closing the Teachers Employers Contribution Collection Account on or before June 30, 2014 and transferring any balance of employer contributions to the Teachers Retirement System Fund; depositing employer contributions through state appropriations to the Teachers Retirement System Fund beginning July 1, 2014; and directing additional funds from the Employers Contribution Collection Account to the Teachers Retirement System Fund.
Be it enacted by the Legislature of West Virginia:

That §18-7A-14, §18-7A-17, §18-7A-18 and §18-7A-18a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-14. Contributions by members; contributions by employers; forfeitures.

(a) At the end of each month every member of the retirement system shall contribute six percent of that member's monthly gross salary to the retirement board: Provided, That any member employed by a state institution of higher education shall contribute on the member's full earnable compensation, unless otherwise provided in section fourteen-a of this article. The sums are due the State Teachers Retirement System at the end of each calendar month and shall be paid not later than fifteen days following the end of the calendar month. Each remittance shall be accompanied by a detailed summary of the sums withheld from the gross compensation of each member for that month on forms, either paper or electronic, provided by the State Teachers Retirement System for that purpose.

(b) Annually, the contributions of each member shall be credited to the member's account in the State Teachers Retirement System Fund. The contributions shall be deducted from the gross salaries of the members as prescribed in this section and every member shall be considered to have given consent to the deductions. No deductions, however, shall be made from the earnable compensation of any member who retired because of age or service and then resumed service unless as provided in section thirteen-a of this article.

(c) The aggregate of employer contributions, due and payable under this article, shall equal annually the total deductions from the gross salary of members required by this
section. Beginning July 1, 1994, the rate shall be seven and
one-half percent; beginning on July 1, 1995, the rate shall be
nine percent; beginning on July 1, 1996, the rate shall be ten and
one-half percent; beginning on July 1, 1997, the rate shall be
twelve percent; beginning on July 1, 1998, the rate shall be
thirteen and one-half percent; and beginning on July 1, 1999, and
thereafter, the rate shall be fifteen percent: Provided, That the
rate shall be seven and one-half percent for any individual who
becomes a member of the State Teachers Retirement System for
the first time on or after July 1, 2005, or any individual who
becomes a member of the State Teachers Retirement System as
a result of the voluntary transfer contemplated in article seven-d
of this chapter.

(d) Payment by an employer to a member of the sum
specified in the employment contract minus the amount of the
employee's deductions shall be considered to be a full discharge
of the employer's contractual obligation as to earnable
compensation.

(e) Each employer shall file with the retirement board a
completed enrollment form showing the contributor's date of
birth and other data needed by the retirement board.

(f) Notwithstanding any other provisions of this article,
forfeitures under the retirement system shall not be applied to
increase the benefits any member would otherwise receive under
the retirement system.

§18-7A-17. Statement and computation of teachers' service;
qualified military service.

(a) Under rules adopted by the retirement board, each
teacher and nonteaching member shall file a detailed statement
of his or her length of service as a teacher or nonteacher for
which he or she claims credit. The retirement board shall
determine what part of a year is the equivalent of a year of
service. In computing the service, however, it shall credit no
period of more than a month’s duration during which a member was absent without pay, nor shall it credit for more than one year of service performed in any calendar year.

(b) For the purpose of this article, the retirement board shall grant prior service credit to members of the retirement system who were honorably discharged from active duty service in any of the Armed Forces of the United States in any period of national emergency within which a federal Selective Service Act was in effect. For purposes of this section, “Armed Forces” includes Women’s Army Corps, women’s appointed volunteers for emergency service, Army Nurse Corps, SPARS, Women’s Reserve and other similar units officially parts of the military service of the United States. The military service is considered equivalent to public school teaching, and the salary equivalent for each year of that service is the actual salary of the member as a teacher for his or her first year of teaching after discharge from military service. Prior service credit for military service shall not exceed ten years for any one member, nor shall it exceed twenty-five percent of total service at the time of retirement. Notwithstanding the preceding provisions of this subsection, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code. For purposes of this section, “qualified military service” has the same meaning as in Section 414(u) of the Internal Revenue Code. The retirement board is authorized to determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the retirement board in section one, article ten-d, chapter five of this code, may promulgate rules relating to contributions, benefits and service credit to comply with Section 414(u) of the Internal Revenue Code. No military service credit may be used in more than one retirement system administered by the Consolidated Public Retirement Board.

(c) For service as a teacher in the employment of the federal government, or a state or territory of the United States, or a
governmental subdivision of that state or territory, the retirement board shall grant credit to the member: Provided, That the member shall pay to the system twelve percent of that member's gross salary earned during the first full year of current employment whether a member of the Teachers' Retirement System or the Teachers' Defined Contribution Retirement System, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. The interest shall be deposited in the reserve fund and service credit granted at the time of retirement shall not exceed the lesser of ten years or fifty percent of the member's total service as a teacher in West Virginia. Any purchase of out-of-state service, as provided in this article, shall not be used to establish eligibility for a retirement allowance and the retirement board shall grant credit for the purchased service as additional service only: Provided, however, That a purchase of out-of-state service is prohibited if the service is used to obtain a retirement benefit from another retirement system: Provided further, That salaries paid to members for service prior to entrance into the retirement system shall not be used to compute the average final salary of the member under the retirement system.

(d) No members shall be considered absent from service while serving as a member or employee of the Legislature of the State of West Virginia during any duly constituted session of that body or while serving as an elected member of a county commission during any duly constituted session of that body.

(e) No member shall be considered absent from service as a teacher or nonteacher while serving as an officer with a statewide professional teaching association, or who has served in that capacity, and no retirant, who served in that capacity while a member, shall be considered to have been absent from service as a teacher by reason of that service: Provided, That the period of service credit granted for that service shall not exceed ten years: Provided, however, That a member or retirant who is serving or has served as an officer of a statewide professional
teaching association shall make deposits to the Teachers Retirement System, for the time of any absence, in an amount double the amount which he or she would have contributed in his or her regular assignment for a like period of time.

(f) The Teachers Retirement System shall grant service credit to any former or present member of the West Virginia Public Employees Retirement System who has been a contributing member of the Teachers Retirement System for more than three years, for service previously credited by the Public Employees Retirement System upon his or her written request and: (1) Shall require the transfer of the member's Public Employees Retirement System accumulated contributions to the Teachers Retirement System; or (2) shall require a repayment of the amount withdrawn from the Public Employees Retirement System, plus interest at a rate to be determined by the retirement board, compounded annually from the date of withdrawal to the date of payment, any time prior to the member's effective retirement date: Provided, That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Teachers Retirement System during the period of his or her membership in the Public Employees Retirement System, plus interest at a rate determined by the retirement board, compounded annually from the date the additional contribution would have been made had the member been under the Teachers Retirement System to the date of payment. All interest paid or transferred shall be deposited in the reserve fund.

(g) For service as a teacher in an elementary or secondary parochial school, located within this state and fully accredited by the West Virginia Department of Education, the retirement board shall grant credit to the member: Provided, That the member shall pay to the system twelve percent of that member's gross salary earned during the first full year of current employment whether a member of the Teachers' Retirement System or the
Teachers' Defined Contribution Retirement System, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. The interest shall be deposited in the reserve fund and service granted at the time of retirement shall not exceed the lesser of ten years or fifty percent of the member's total service as a teacher in the West Virginia public school system. Any purchase of parochial school service, as provided in this section, may not be used to establish eligibility for a retirement allowance and retirement board shall grant credit for the purchase as additional service only: Provided, however, That a purchase of parochial school service is prohibited if the service is used to obtain a retirement benefit from another retirement system.

(h) Active members who previously worked in CETA (Comprehensive Employment and Training Act) may receive service credit for time served in that capacity: Provided, That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within one hundred twenty days following the termination of the member's CETA employment; (2) the retirement board must receive evidence that establishes to a reasonable degree of certainty as determined by the retirement board that the member previously worked in CETA; and (3) the member shall pay to the retirement board an amount equal to the employer and employee contribution plus interest at the amount set by the retirement board for the amount of service credit sought pursuant to this subsection: Provided, however, That the maximum service credit that may be obtained under the provisions of this subsection is two years: Provided further, That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: And provided further, That the retirement board shall exercise due diligence to notify affected employees of the provisions of this subsection.
(i) If a member is not eligible for prior service credit or pension as provided in this article, then his or her prior service shall not be considered a part of his or her total service.

(j) A member who withdrew from membership may regain his or her former membership rights as specified in section thirteen of this article only in case he or she has served two years since his or her last withdrawal.

(k) Subject to the provisions of subsections (a) through (l), inclusive, of this section, the retirement board shall verify as soon as practicable the statements of service submitted. The retirement board shall issue prior service certificates to all persons eligible for the certificates under the provisions of this article. The certificates shall state the length of the prior service credit, but in no case shall the prior service credit exceed forty years.

(l) Notwithstanding any provision of this article to the contrary, when a member is or has been elected to serve as a member of the Legislature, and the proper discharge of his or her duties of public office require that member to be absent from his or her teaching or administrative duties, the time served in discharge of his or her duties of the legislative office are credited as time served for purposes of computing service credit: Provided, That the retirement board may not require any additional contributions from that member in order for the retirement board to credit him or her with the contributing service credit earned while discharging official legislative duties: Provided, however, That nothing in this section may be construed to relieve the employer from making the employer contribution at the member’s regular salary rate or rate of pay from that employer on the contributing service credit earned while the member is discharging his or her official legislative duties. These employer payments shall commence as of June 1, 2000: Provided further, That any member to which the provisions of this subsection apply may elect to pay to the
retirement board an amount equal to what his or her contribution
would have been for those periods of time he or she was serving
in the Legislature. The periods of time upon which the member
paid his or her contribution shall then be included for purposes
of determining his or her final average salary as well as for
determining years of service: And provided further, That a
member using the provisions of this subsection is not required to
pay interest on any contributions he or she may decide to make.

(m) The Teachers Retirement System shall grant service
credit to any former member of the State Police Death, Disability
and Retirement System who has been a contributing member for
more than three years, for service previously credited by the
State Police Death, Disability and Retirement System; and: (1)
Shall require the transfer of the member's contributions to the
Teachers Retirement System; or (2) shall require a repayment of
the amount withdrawn any time prior to the member's
retirement: Provided, That the member shall add to the amounts
transferred or repaid under this paragraph an amount which is
sufficient to equal the contributions he or she would have made
had the member been under the Teachers Retirement System
during the period of his or her membership in the State Police
Death, Disability and Retirement System plus interest at a rate
to be determined by the retirement board compounded annually
from the date of withdrawal to the date of payment. The interest
paid shall be deposited in the reserve fund.

§18-7A-18. Teachers Retirement System Fund; transfers.

(a) There is hereby created in the State Treasury a special
revenue account designated the "Teachers Employers
Contribution Collection Account" to be administered by the
Consolidated Public Retirement Board. The Teachers Employers
Contribution Collection Account shall be an interest-bearing
account with interest credited to and deposited in the account
and transferred in accordance with the provisions of this section:
Provided, That on or before June 30, 2014, the Consolidated
Public Retirement Board shall close the Teachers Employers Contribution Collection Account and transfer any balance in the Teachers Employers Contribution Collection Account to the Teachers Retirement System Fund. After the Teachers Employers Contribution Collection Account is closed, any amounts required to be transferred or remitted to the Teachers Employers Contribution Collection Account shall be transferred or remitted to the Teachers Retirement System Fund.

(b) There is hereby continued in the State Treasury a separate irrevocable trust designated the Teachers Retirement System Fund. The Teachers Retirement System Fund shall be invested as provided in section nine-a, article six, chapter twelve of this code.

(c) Beginning July 1, 2014, there shall be deposited into the Teachers Retirement System Fund, the following:

(1) Contributions of employers, through state appropriations, and the amounts shall be included in the budget bill submitted annually by the Governor;

(2) Beginning on July 1, 2005, contributions from each county in an amount equal to fifteen percent of all salary paid in excess of that authorized for minimum salaries in sections two and eight-a, article four, chapter eighteen-a of this code and any salary equity authorized in section five of said article or any county supplement equal to the amount distributed for salary equity among the counties for each individual who was a member of the Teachers Retirement System before July 1, 2005: Provided, That the rate shall be seven and one-half percent for any individual who becomes a member of the Teachers Retirement System for the first time on or after July 1, 2005 or any individual who becomes a member of the Teachers Retirement System as a result of the transfer contemplated in article seven-d of this chapter;
(3) Member contributions provided for in section fifteen of
this article;

(4) Gifts and bequests to the fund and any accretions and
accumulations which may properly be paid into and become a
part of the fund;

(5) Specific appropriations to the fund made by the
Legislature;

(6) Interest on the investment of any part or parts of the
fund; and

(7) Any other moneys, available and not otherwise
expended, which may be appropriated or transferred to the
 Teachers Retirement System or the Fund.

d) The Teachers Retirement System Fund shall be the fund
from which annuities shall be paid.

e) The Consolidated Public Retirement Board has sole
authority to direct and approve the making of any and all fund
transfers as provided in this section, anything in this code to the
contrary notwithstanding.

f) References in the code to the Teachers Accumulation
Fund, the Employers Accumulation Fund, the Benefit Fund, the
Reserve Fund and the Expense Fund mean the Teachers
Retirement System Fund.

§18-7A-18a. Calculation of allocation to Teachers Retirement
System Fund.

(a) There shall be an annual allocation from the State
General Revenue Fund to the Teachers Retirement System Fund,
created by section eighteen of this article, equal to the actuarially
required contribution, reduced by any employer contributions
and other allocated amounts.
(b) There shall be an additional allocation in each year an amount equal to the total of all irrevocably forfeited amounts in the suspension account established in section eleven, article seven-b of this chapter plus earnings thereon which have been certified to the several contributing employers as irrevocably forfeited in the prior fiscal year and subsequently used by the contributing employers to reduce their total aggregate contribution requirements pursuant to section seventeen, article seven-b of this chapter.

(c) The additional allocation provided in this section represents a funding method by which a part of a rational amortization plan will be established to amortize the current unfunded liability of the Teachers Retirement System created by this article. The additional allocations are not and shall not be construed to be moneys which are owed to, nor earned by any employee.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 21st day of March, 2014.

Governor