

FILED

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WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 302

(BY SENATORS GAUNCH AND TRUMP)

[PASSED FEBRUARY 20, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 302

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Senate Bill No. 302

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY SENATORS GAUNCH AND TRUMP)

[Passed February 20, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §5-10A-2 and §5-10A-6 of the Code of West Virginia, 1931, as amended, all relating to disqualification for public retirement plan benefits when a participant is determined to have rendered less than honorable service; adding the West Virginia Municipal Police Officers and Firefighters Retirement System to definition of "retirement plan"; and specifying that former participants of the West Virginia Teachers Defined Contribution Retirement System who elected to transfer to the West Virginia Teachers Retirement System and whose benefits have been terminated for less than honorable service shall not be refunded any transferred vested employer contributions.

Be it enacted by the Legislature of West Virginia:

That §5-10A-2 and §5-10A-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 10A. DISQUALIFICATION FOR PUBLIC RETIREMENT PLAN BENEFITS.

§5-10A-2. Definitions.

1 As used in this article:

2 (a) "Retirement plan" or "plan" means the Public
3 Employees Retirement Act pursuant to article ten of this
4 chapter; each municipal employees retirement plan pursuant
5 to article twenty-two, chapter eight of this code; each
6 policemen's and firemen's pension and relief fund pursuant
7 to article twenty-two, chapter eight of this code; the West
8 Virginia Municipal Police Officers and Firefighters
9 Retirement System pursuant to article twenty-two-a, chapter
10 eight of this code; the West Virginia State Police Death,
11 Disability and Retirement Fund pursuant to article two,
12 chapter fifteen of this code; the West Virginia State Police
13 Retirement System pursuant to article two-a, chapter fifteen
14 of this code; the State Teachers Retirement System pursuant
15 to article seven-a, chapter eighteen of this code; the
16 Teachers' Defined Contribution Retirement System
17 pursuant to article seven-b, chapter eighteen of this code;
18 the Deputy Sheriff Retirement System pursuant to article
19 fourteen-d, chapter seven of this code; the higher education
20 retirement plan and supplemental retirement plans pursuant
21 to section four-a, article twenty-three, chapter eighteen of
22 this code; the Judges' Retirement System pursuant to article
23 nine, chapter fifty-one of this code; the West Virginia
24 Emergency Medical Services Retirement System pursuant
25 to article five-v, chapter sixteen of this code; and any other
26 plan established pursuant to this code for the payment of
27 pension, annuity, disability or other benefits to any person
28 by reason of his or her service as an officer or employee of
29 this state or of any political subdivision, agency or
30 instrumentality thereof, whenever the plan is supported, in
31 whole or in part, by public funds.

32 (b) "Beneficiary" means any person eligible for or
33 receiving benefits on account of the service for a public
34 employer by a participant or former participant in a
35 retirement plan.

36 (c) "Benefits" means pension, annuity, disability or any
37 other benefits granted pursuant to a retirement plan.

38 (d) "Conviction" means a conviction on or after the
39 effective date of this article in any federal or state court of
40 record whether following a plea of guilty, not guilty or nolo
41 contendere and whether or not the person convicted was
42 serving as an officer or employee of a public employer at the
43 time of the conviction.

44 (e) "Former participant" means any person who is no
45 longer eligible to receive any benefit under a retirement plan
46 because full distribution has occurred.

47 (f) "Less than honorable service" means:

48 (1) Impeachment and conviction of a participant or
49 former participant under the provisions of section nine, article
50 four of the Constitution of West Virginia, except for a
51 misdemeanor;

52 (2) Conviction of a participant or former participant of a
53 felony for conduct related to his or her office or employment
54 which he or she committed while holding the office or during
55 the employment; or

56 (3) Conduct of a participant or former participant which
57 constitutes all of the elements of a crime described in either
58 subdivision (1) or (2) of this subsection but for which the
59 participant or former participant was not convicted because:
60 (i) Having been indicted or having been charged in an
61 information for the crime, he or she made a plea bargaining
62 agreement pursuant to which he or she pleaded guilty to or
63 nolo contendere to a lesser crime: *Provided*, That the lesser
64 crime is a felony containing all the elements described in
65 subdivision (1) or (2) of this subsection; or (ii) having been

66 indicted or having been charged in an information for the
67 crime, he or she was granted immunity from prosecution for
68 the crime.

69 (g) "Participant" means any person eligible for or
70 receiving any benefit under a retirement plan on account of
71 his or her service as an officer or employee for a public
72 employer.

73 (h) "Public employer" means the State of West Virginia
74 and any political subdivision, agency or instrumentality
75 thereof for which there is established a retirement plan.

76 (i) "Supervisory board" or "board" means the
77 Consolidated Public Retirement Board; the board of trustees
78 of any municipal retirement fund; the board of trustees of any
79 policemen's or firemen's retirement plan; the governing
80 board of any supplemental retirement plan instituted pursuant
81 to authority granted by the previous provisions of section
82 four-a, article twenty-three, chapter eighteen of this code; and
83 any other board, commission or public body having the duty
84 to supervise and operate any retirement plan.

§5-10A-6. Refund of contributions.

1 The supervisory board shall refund to a participant or
2 beneficiary terminated from benefits by section five of this
3 article the contributions of the participant in the same manner
4 and with the same interest as provided to those participants or
5 beneficiaries otherwise eligible to withdraw the participant's
6 contributions under the retirement plan, less the amount of
7 any benefits which the participant or his or her beneficiaries
8 have previously received: *Provided*, That a member of the
9 Teachers' Defined Contribution Retirement System whose
10 benefits have been terminated pursuant to section five of this
11 article shall be refunded only his or her employee

12 contributions and the earnings on those contributions; and
13 any vested employer contributions shall remain in the
14 Teachers' Defined Contribution Retirement System and be
15 used to offset future employer contributions for each
16 contributing employer: *Provided, however,* That any former
17 member of the Teachers' Defined Contribution Retirement
18 System who affirmatively elected to transfer to the State
19 Teachers' Retirement System pursuant to article seven-d,
20 chapter eighteen of this code and whose benefits have been
21 terminated pursuant to section five of this article shall be
22 refunded only his or her employee contributions and the
23 earnings on those contributions; and any vested employer
24 contributions from the Teachers' Defined Contribution
25 Retirement System shall remain in the State Teachers
26 Retirement System to be used to offset future employer
27 contributions for each contributing employer.

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

Mark R. Raymond
.....
Chairman Senate Committee

John B. Kellum
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Mark A. Bennett
.....
Clerk of the Senate

Robert D. Harris
.....
Clerk of the House of Delegates

William F. White
.....
President of the Senate

Samuel P. Miller
.....
Speaker of the House of Delegates

The within *is approved* this the *3rd*
Day of *March*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

FEB 27 2005

Time 5.00 per