WEST VIRGINIA LEGISLATURE.
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 342
(SENATORS GAUNCH, TRUMP AND PLYMALE, ORIGINAL SPONSORS)

(PASSED MARCH 12, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.)
AN ACT to amend and reenact §5-10-44 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-7a of said code; to amend and reenact §8-22A-8 of said code; to amend said code by adding thereto a new section, designated §8-22A-8a; to amend said code by adding thereto a new section, designated §15-2-54; to amend said code by adding thereto a new section, designated §15-2A-23; to amend and reenact §16-5V-8a of said code; to amend and reenact §18-7A-14c of said code; to amend and reenact §18-7B-21 of said code; and to amend said code by adding thereto a new section, designated §51-9-18, all relating to correction of errors under the West Virginia Public Employees Retirement System, West Virginia Deputy Sheriff Retirement System, West Virginia Municipal Police Officers and Firefighters Retirement System, West Virginia Emergency Medical Services Retirement System, the State Teachers Retirement System, Teachers’ Defined Contribution Retirement System, West Virginia State Police Death, Disability and Retirement System, West Virginia State Police Retirement System and the Judges’ Retirement System; and clarifying scope, application and requirements for error correction by Consolidated Public Retirement Board.
Be it enacted by the Legislature of West Virginia:

That §5-10-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §7-14D-7a of said code be amended and reenacted; that §8-22A-8 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §8-22A-8a; that said code be amended by adding thereto a new section, designated §15-2-54; that said code be amended by adding thereto a new section, designated §15-2A-23; that §16-5V-8a of said code be amended and reenacted; that §18-7A-14c of said code be amended and reenacted; that §18-7B-21 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §51-9-18, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-44. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of any errors, the board shall correct errors in the retirement system in a timely manner whether an individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and retirement board in the position each would have been in had the error not occurred.

(b) Underpayments to the retirement system: Any error resulting in an underpayment to the retirement system may be corrected by the member or retirant remitting the required employee contribution or underpayment and the participating public employer remitting the required employer contribution
or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and correction of error interest factors and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error shall be the responsibility of the participating public employer. The participating public employer may remit total payment and the employee reimburse the participating public employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment to the retirement system will result in the retirement system paying a retirant an additional amount, this additional payment shall be made only after the board receives full payment of all required employee and employer contributions or underpayments, including interest.

(c) Overpayments to the retirement system by an employer: When mistaken or excess employer contributions or other employer overpayments have been made to the retirement system, the board shall credit the employer with an amount equal to the overpayment, to be offset against the employer's future liability for employer contributions to the system. If the employer has no future liability for employer contributions to the retirement system, the board shall refund the erroneous contributions directly to the employer. Earnings or interest shall not be returned, offset or credited to the employer under any of the means used by the board for returning employer overpayments to the retirement system.

(d) Overpayments to the retirement system by an employee: When mistaken or excess employee contributions or overpayments have been made to the retirement system, the board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the individual making the mistaken or excess employee contribution of the
amounts, and may use any means authorized or permitted
under the provisions of section 401(a), et seq. of the Internal
Revenue Code and guidance issued thereunder applicable to
governmental plans. Alternatively, in its full and complete
discretion, the board may require the participating public
employer employing the individual to pay the individual the
amounts as wages, with the board crediting the participating
public employer with a corresponding amount to offset
against its future contributions to the plan. If the employer
has no future liability for employer contributions to the
retirement system, the board shall refund said amount directly
to the employer: *Provided*, That the wages paid to the
individual shall not be considered compensation for any
purposes of this article. Earnings or interest shall not be
returned, offset or credited under any of the means used by
the board for returning employee overpayments.

(e) Overpayments from the retirement system: If any
error results in any member, retiree, beneficiary, entity or
other individual receiving from the system more than he
would have been entitled to receive had the error not
occurred, the board shall correct the error in a timely manner.
If correction of the error occurs after annuity payments to a
retiree or beneficiary have commenced, the board shall
prospectively adjust the payment of the benefit to the correct
amount. In addition, the member, retiree, beneficiary, entity
or other person who received the overpayment from the
retirement system shall repay the amount of any overpayment
to the retirement system in any manner permitted by the
board. Interest shall not accumulate on any corrective
payment made to the retirement system pursuant to this
subsection.

(f) Underpayments from the retirement system: If any
error results in any member, retiree, beneficiary, entity or
other individual receiving from the retirement system less
than he would have been entitled to receive had the error not
If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the retirement system pursuant to this subsection.

(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer currently or formerly participating in the retirement system is not eligible to participate, the board shall notify the individual and his or her employer of the determination and terminate participation in the retirement system. Any erroneous payments to the retirement system shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section and any erroneous payments from the retirement system to such individual shall be returned to the retirement system in accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the retirement system, but was eligible to and required to be participating in the retirement system, the board shall as soon as practicable notify the individual and his or her employer of the determination and the individual and his or her employer shall prospectively commence participation in the retirement system as soon as practicable. Service credit for service prior to the date on which the individual prospectively commences participation in the retirement system shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) of this section, including interest.
CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

§7-14D-7a. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of errors, the board shall correct errors in the retirement plan in a timely manner whether the individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and board in the position each would have been in had the error not occurred.

(b) Underpayments to the plan: Any error resulting in an underpayment to the plan may be corrected by the member or retirant remitting the required employee contribution or underpayment and the participating public employer remitting the required employer contribution or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and correction of error interest factors and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error shall be the responsibility of the participating public employer. The participating public employer may remit total payment and the employee reimburse the participating public employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment to the plan will result in the plan paying a retirant an additional amount, this additional payment shall be made only after the board receives full payment of all required employee and employer contributions or underpayments, including interest.

(c) Overpayments to the plan by an employer: When mistaken or excess employer contributions or other employer
overpayments have been made to the plan, the board shall credit the employer with an amount equal to the overpayment, to be offset against the employer's future liability for employer contributions to the plan. If the employer has no future liability for employer contributions to the retirement system, the board shall refund the erroneous contributions directly to the employer. Earnings or interest shall not be returned, offset or credited to the employer under any of the means used by the board for returning employer overpayments made to the plan.

(d) Overpayments to the plan by an employee: When mistaken or excess employee contributions or overpayments have been made to the retirement system, the board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the individual making the mistaken or excess employee contribution of the amounts, and may use any means authorized or permitted under the provisions of section 401(a), et seq. of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the board may require the participating public employer employing the individual to pay the individual the amounts as wages, with the board crediting the participating public employer with a corresponding amount to offset against its future contributions to the plan. If the employer has no future liability for employer contributions to the plan, the board shall refund said amount directly to the employer: Provided, That the wages paid to the individual shall not be considered compensation for any purposes of this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the board for returning employee overpayments.

(e) Overpayments from the plan: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the system more than he would have been
entitled to receive had the error not occurred the board shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retirant, beneficiary, entity or other person who received the overpayment from the plan shall repay the amount of any overpayment to the plan in any manner permitted by the board. Interest shall not accumulate on any corrective payment made to the plan pursuant to this subsection.

(f) Underpayments from the plan: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the plan less than he would have been entitled to receive had the error not occurred, the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the plan pursuant to this subsection.

(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer formerly or currently participating in the plan is not eligible to participate, the board shall notify the individual and his or her employer of the determination, and terminate participation in the plan. Any erroneous payments to the retirement system shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section and any erroneous payments from the plan to such individual shall be returned to the plan in accordance with the methods described in subsection (e) of this section.
Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the plan, but was eligible to and required to be participating in the plan, the board shall as soon as practicable notify the individual and his or her employer of the determination, and the individual and his or her employer shall prospectively commence participation in the plan as soon as practicable. Service credit for service prior to the date on which the individual prospectively commences participation in the plan shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) of this section, including interest.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

§8-22A-8. Members’ contributions; employer contributions.

(a)(1) There shall be deducted from the monthly salary of each member and paid into the fund an amount equal to eight and one-half percent, or ten and one-half percent, if applicable, of his or her monthly salary. An additional amount shall be paid to the fund by the municipality or municipal subdivision in which the member is employed in covered employment in an amount determined by the board: Provided, That in no year may the total of the employer contributions provided in this section, to be paid by the municipality or municipal subdivision, exceed ten and one-half percent of the total payroll for the members in the employ of the municipality or municipal subdivision. Any active member who has concurrent employment in an additional job or jobs and the additional employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated
Public Retirement Board pursuant to article ten-d, chapter five of this code shall contribute to the fund the sum of eight and one-half percent, or ten and one-half percent, if applicable, of his or her monthly salary earned as a municipal police officer or firefighter as well as the sum of eight and one-half percent, or ten and one-half percent, if applicable, of his or her monthly salary earned from any additional employment which additional employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code. An additional amount as determined by the board, not to exceed ten and one-half percent of the monthly salary of each member, shall be paid to the fund by the concurrent employer by which the member is employed.

(2) The board may, on the recommendation of the board’s actuary, increase the employees’ contribution rate from eight and one-half percent to ten and one-half percent should the plan not be seventy percent funded by July 1, 2014. The board shall decrease the contribution rate to eight and one-half percent on July 1 following the acceptance by the board of an actuarial valuation determining that the plan is seventy-five percent funded. If the plan funding level at a later actuarial valuation date falls below seventy percent, the employee rate of contribution shall be increased to ten and one-half percent of salary until the seventy-five percent level of funding is achieved. The board shall change the employee contribution rate on July 1 following the board’s acceptance of the actuarial valuation. At no time may the rate of employee contribution exceed the rate of employer contribution.

(b) All required deposits shall be remitted to the board no later than fifteen days following the end of the calendar month for which the deposits are required. If the board on the recommendation of the board actuary finds that the
benefits provided by this article can be actuarially funded with a lesser contribution, then the board shall reduce the required member and employer contributions proportionally. Any municipality or municipal subdivision which fails to make any payment due the Municipal Police Officers and Firefighters Retirement Fund by the fifteenth day following the end of each calendar month in which contributions are due may be required to pay the actuarial rate of interest lost on the total amount owed for each day the payment is delinquent. Accrual of the loss of earnings owed by the delinquent municipality or municipal subdivision commences after the fifteenth day following the end of the calendar month in which contributions are due and continues until receipt of the delinquent amount. Interest compounds daily and the minimum surcharge is $50.

§8-22A-8a. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of errors, the board shall correct errors in the plan in a timely manner whether the individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and retirement board in the position each would have been in had the error not occurred.

(b) Underpayments to the plan: Any error resulting in an underpayment to the plan may be corrected by the member or retirant remitting the required employee contribution or underpayment and the employer remitting the required employer contribution or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and correction of error interest factors, and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error shall be the responsibility of the employer. The employer may remit total payment and the employee reimburse the
employer through payroll deduction over a period equivalent to
the time period during which the employer error occurred. If
the correction of an error involving an underpayment to the plan
will result in the plan correcting an erroneous underpayment
from the plan, the correction of the underpayment from the plan
shall be made only after the board receives full payment of all
required employee and employer contributions or
underpayments, including interest.

(c) Overpayments to the plan by the employer: When
mistaken or excess employer contributions, including any
overpayments have been made to the retirement system by
the employer, the board shall credit the employer with an
amount equal to the overpayment, to be offset against the
employer’s future liability for employer contributions to the
system. If the employer has no future liability for employer
contributions to the plan, the board shall refund the erroneous
contributions directly to the employer. Earnings or interest
shall not be returned, offset or credited to the employer under
any of the means used by the board for returning employer
overpayments to the plan.

(d) Overpayments to the plan by an employee: When
mistaken or excess employee contributions or overpayments
have been made to the plan, the board shall have sole
authority for determining the means of return, offset or credit
to or for the benefit of the individual making the mistaken or
excess employee contribution of the amounts, and may use
any means authorized or permitted under the provisions of
section 401(a), et seq. of the Internal Revenue Code and
guidance issued thereunder applicable to governmental plans.
Alternatively, in its full and complete discretion, the board
may require the employer employing the individual to pay the
individual the amounts as wages, with the board crediting the
employer with a corresponding amount to offset against its
future contributions to the plan. If the employer has no future
liability for employer contributions to the plan, the board
shall refund said amount directly to the employer: Provided, That the wages paid to the individual shall not be considered compensation for any purposes of this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the board for returning employee overpayments.

(e) Overpayments from the plan: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the plan more than he would have been entitled to receive had the error not occurred the board after learning of the error shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retirant, beneficiary, entity or other person who received the overpayment from the plan shall repay the amount of any overpayment to the retirement system in any manner permitted by the board. Interest shall not accumulate on any corrective payment made to the plan pursuant to this subsection.

(f) Underpayments from the plan: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the plan less than he would have been entitled to receive had the error not occurred, the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the retirement system pursuant to this subsection.
(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer formerly or currently participating in the plan is not eligible to participate, the board shall notify the individual and his or her employer of the determination, and terminate participation in the plan. Any erroneous payments to the plan shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section, and any erroneous payments from the plan to such individual shall be returned to the plan in accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the retirement plan, but was eligible to and required to be participating in the plan, the board shall as soon as practicable notify the individual and his or her employer of the determination, and the individual and his or her employer shall prospectively commence participation in the plan as soon as practicable. Service credit for service prior to the date on which the individual prospectively commences participation in the plan shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) of this section, including interest.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-54. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of any errors, the board shall correct errors in the system in a timely manner whether the individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and retirement board in the position each would have been in had the error not occurred.
(b) Underpayments to the system: Any error resulting in an underpayment to the system may be corrected by the member or retirant remitting the required employee contribution or underpayment and the employer remitting the required employer contribution or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and correction of error interest factors and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error is the responsibility of the employer. The employer may remit total payment and the employee reimburse the employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment to the system will result in the system correcting an erroneous underpayment from the system, the correction of the underpayment from the system shall be made only after the board receives full payment of all required employee and employer contributions or underpayments, including interest.

(c) Overpayments to the system by an employer: When mistaken or excess employer contributions, including any overpayments have been made to the system by the employer, the board shall credit the employer with an amount equal to the overpayment, to be offset against the employer's future liability for employer contributions to the system. If the employer has no future liability for employer contributions to the retirement system, the board shall refund the erroneous contributions directly to the employer. Earnings or interest shall not be returned, offset or credited to the employer under any of the means used by the board for returning employer overpayments to the retirement system.

(d) Overpayments to the system by an employee: When mistaken or excess employee contributions or overpayments
have been made to the system, the board shall have sole
authority for determining the means of return, offset or credit
to or for the benefit of the individual making the mistaken or
excess employee contribution of the amounts, and may use
any means authorized or permitted under the provisions of
section 401(a), et seq. of the Internal Revenue Code and
guidance issued thereunder applicable to governmental plans.
Alternatively, in its full and complete discretion, the board
may require the employer employing the individual to pay the
individual the amounts as wages, with the board crediting the
employer with a corresponding amount to offset against its
future contributions to the plan. If the employer has no future
liability for employer contributions to the system, the board
shall refund said amount directly to the employer: Provided,
That the wages paid to the individual shall not be considered
compensation for any purposes of this article. Earnings or
interest shall not be returned, offset, or credited under any of
the means used by the board for returning employee
overpayments.

(e) Overpayments from the system: If any error results in
any member, retirant, beneficiary, entity or other individual
receiving from the system more than he would have been
entitled to receive had the error not occurred the board, upon
learning of the error, shall correct the error in a timely
manner. If correction of the error occurs after annuity
payments to a retirant or beneficiary have commenced, the
board shall prospectively adjust the payment of the benefit to
the correct amount. In addition, the member, retirant,
beneficiary, entity or other person who received the
overpayment from the system shall repay the amount of any
overpayment to the system in any manner permitted by the
board. Interest shall not accumulate on any corrective
payment made to the system pursuant to this subsection.

(f) Underpayments from the system: If any error results
in any member, retirant, beneficiary, entity or other
individual receiving from the retirement system less than he would have been entitled to receive had the error not occurred, the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the system pursuant to this subsection.

(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer currently or formerly participating in the retirement system is not eligible to participate, the board shall notify the individual and his or her employer of the determination, and terminate participation in the system. Any erroneous payments to the system shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section and any erroneous payments from the system to such individual shall be returned to the system in accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the system, but was eligible to and required to be participating in the system, the board shall as soon as practicable notify the individual and his or her employer of the determination, and the individual and his or her employer shall prospectively commence participation in the system as soon as practicable. Service credit for service prior to the date on which the individual prospectively commences participation in the system shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) in this section, including interest.
ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-23. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of any errors, the board shall correct errors in the retirement system in a timely manner whether the individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and retirement board in the position each would have been in had the error not occurred.

(b) Underpayments to the system: Any error resulting in an underpayment to the system, may be corrected by the member or retirant remitting the required employee contribution or underpayment and the employer remitting the required employer contribution or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and correction of error interest factors and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error shall be the responsibility of the employer. The employer may remit total payment and the employee reimburse the employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment to the system will result in the system correcting an erroneous underpayment from the system, the correction of the underpayment from the system shall be made only after the board receives full payment of all required employee and employer contributions or underpayments, including interest.

(c) Overpayments to the system by an employer: When mistaken or excess employer contributions or other overpayments have been made to the system by an employer, the board shall credit the employer with an amount equal to
the overpayment, to be offset against the employer’s future liability for employer contributions to the system. If the employer has no future liability for employer contributions to the retirement system, the board shall refund the erroneous contributions directly to the employer. Earnings or interest shall not be returned, offset or credited to the employer under any of the means used by the board for returning employer overpayments to the retirement system.

(d) Overpayments to the system by an employee: When mistaken or excess employee contributions or overpayments have been made to the system, the board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the individual making the mistaken or excess employee contribution of the amounts, and may use any means authorized or permitted under the provisions of section 401(a), et seq. of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the board may require the employer employing the individual to pay the individual the amounts as wages, with the board crediting the employer with a corresponding amount to offset against its future contributions to the plan. If the employer has no future liability for employer contributions to the retirement system, the board shall refund said amount directly to the employer: Provided, That the wages paid to the individual shall not be considered compensation for any purposes of this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the board for returning employee overpayments.

(e) Overpayments from the system: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the system more than he would have been entitled to receive had the error not occurred the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity
payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retirant, beneficiary, entity or other person who received the overpayment from the system shall repay the amount of any overpayment to the system in any manner permitted by the board. Interest shall not accumulate on any corrective payment made to the system pursuant to this subsection.

(f) Underpayments from the system: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the system less than he would have been entitled to receive had the error not occurred, the board shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the system pursuant to this subsection.

(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer currently or formerly participating in the system is not eligible to participate, the board shall notify the individual and his or her employer of the determination, and terminate participation in the system. Any erroneous payments to the system shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section and any erroneous payments from the system to such individual shall be returned to the system in accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the system, but was
eligible to and required to be participating in the system, the
board shall as soon as practicable notify the individual and
his or her employer of the determination, and the individual
and his or her employer shall prospectively commence
participation in the system as soon as practicable. Service
credit for service prior to the date on which the individual
prospectively commences participation in the system shall be
granted only if the board receives the required employer and
employee contributions for such service, in accordance with
subsection (b) in this section, including interest.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT
SYSTEM ACT.

§16-5V-8a. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of any errors, the board
shall correct errors in the retirement system in a timely
manner whether the individual, entity or board was at fault
for the error with the intent of placing the affected individual,
entity and retirement board in the position each would have
been in had the error not occurred.

(b) Underpayments to the plan: Any error resulting in an
underpayment to the retirement plan, may be corrected by the
member or retirant remitting the required employee
contribution or underpayment and the participating public
employer remitting the required employer contribution or
underpayment. Interest shall accumulate in accordance with
the legislative rule 162 CSR 7 concerning retirement board
refund, reinstatement, retroactive service, loan and correction
of error interest factors and any accumulating interest owed
on the employee and employer contributions or
underpayments resulting from an employer error shall be the
responsibility of the participating public employer. The
participating public employer may remit total payment and
the employee reimburse the participating public employer
through payroll deduction over a period equivalent to the
time period during which the employer error occurred. If the
correction of an error involving an underpayment to the
retirement system will result in the plan paying the retirant an
additional amount, this additional payment shall be made
only after the board receives full payment of all required
employee and employer contributions or underpayments,
including interest.

(c) Overpayments to the plan by an employer: When
mistaken or excess employer contributions or other employer
overpayments have been made to the plan, the board shall
credit the employer with an amount equal to the
overpayment, to be offset against the employer’s future
liability for employer contributions to the plan. If the
employer has no future liability for employer contributions to
the plan, the board shall refund the erroneous contributions
directly to the employer. Earnings or interest shall not be
returned, offset or credited to the employer under any of the
means used by the board for returning employer
overpayments to the retirement system.

(d) Overpayments to the plan by an employee: When
mistaken or excess employee contributions or overpayments
have been made to the plan, the board shall have sole
authority for determining the means of return, offset or credit
to or for the benefit of the individual making the mistaken or
excess employee contribution of the amounts, and may use
any means authorized or permitted under the provisions of
section 401(a), et seq. of the Internal Revenue Code and
guidance issued thereunder applicable to governmental plans.
Alternatively, in its full and complete discretion, the board
may require the participating public employer employing the
individual to pay the individual the amounts as wages, with
the board crediting the participating public employer with a
 corresponding amount to offset against its future
contributions to the plan. If the employer has no future liability for employer contributions to the plan, the board shall refund said amount directly to the employer: Provided, That the wages paid to the individual shall not be considered compensation for any purposes of this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the board for returning employee overpayments.

(e) Overpayments from the plan: If any error results in any member, retiree, beneficiary, entity or other individual receiving from the system more than he would have been entitled to receive had the error not occurred the board upon learning of the error shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retiree or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retiree, beneficiary, entity or other person who received the overpayment from the plan shall repay the amount of any overpayment to the plan in any manner permitted by the board. Interest shall not accumulate on any corrective payment made to the plan pursuant to this subsection.

(f) Underpayments from the retirement system: If any error results in any member, retiree, beneficiary, entity or other individual receiving from the plan less than he would have been entitled to receive had the error not occurred, the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retiree or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retiree, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the plan pursuant to this subsection.
(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer, participating in the plan is not eligible to participate, the board shall notify the individual and his or her employer of the determination and terminate participation in the plan. Any erroneous payments to the plan shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section and any erroneous payments from the plan to such individual shall be returned to the plan in accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the plan, but was eligible to and required to be participating in the plan, the board shall as soon as practicable notify the individual and his or her employer of the determination, and the individual and his or her employer shall prospectively commence participation in the plan as soon as practicable. Service credit for service prior to the date on which the individual prospectively commences participation in the plan shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) of this section, including interest.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-14c. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of any errors, the board shall correct errors in the retirement system in a timely manner whether the individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and retirement board in the position each would have been in had the error not occurred.
(b) Underpayments to the retirement system: Any error resulting in an underpayment to the retirement system, may be corrected by the member or retirant remitting the required employee contribution or underpayment and the participating public employer remitting the required employer contribution or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and correction of error interest factors and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error shall be the responsibility of the participating public employer. The participating public employer may remit total payment and the employee reimburse the participating public employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment to the retirement system will result in the plan paying the retirant an additional amount, this additional payment shall be made only after the board receives full payment of all required employee and employer contributions or underpayments, including interest.

(c) Overpayments to the retirement system by an employer: When mistaken or excess employer contributions or other employer overpayments have been made to the retirement system, the board shall credit the employer with an amount equal to the erroneous overpayment, to be offset against the employer's future liability for employer contributions to the retirement system. If the employer has no future liability for employer contributions to the retirement system, the retirement board shall refund the erroneous contributions directly to the employer. Earnings or interest shall not be returned, offset or credited to the employer under any of the means used by the retirement board for returning employer overpayments to the retirement system.
(d) Overpayments to the retirement system by an employee: When mistaken or excess employee contributions or overpayments, have been made to the retirement system, the board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the individual making the mistaken or excess employee contribution of the amounts and may use any means authorized or permitted under the provisions of section 401(a), *et seq.* of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the board may require the employer employing the individual to pay the individual the amounts as wages, with the retirement board crediting the participating public employer with a corresponding amount to offset against its future contributions to the plan. If the employer has no future liability for employer contributions to the retirement system, the retirement board shall refund said amount directly to the employer: *Provided,* That the wages paid to the individual shall not be considered compensation for any purposes of this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the retirement board for returning member overpayments.

(e) Overpayments from the retirement system: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the system more than he would have been entitled to receive had the error not occurred the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retirant, beneficiary, entity or other person who received the overpayment from the retirement system shall repay the amount of any overpayment to the retirement system in any manner permitted by the board. Interest shall not accumulate on any corrective payment made to the retirement system.
pursuant to this subsection.

(f) Underpayments from the retirement system: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the retirement system less than he would have been entitled to receive had the error not occurred, the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the retirement system pursuant to this subsection.

(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer currently or formerly participating in the retirement system is not eligible to participate, the board shall notify the individual and his or her employer of the determination, and terminate participation in the retirement system. Any erroneous payments to the retirement system shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section and any erroneous payments from the retirement system to such individual shall be returned to the retirement system in accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the retirement system, but was eligible to and required to be participating in the retirement system, the board shall as soon as practicable notify the individual and his or her employer of the determination, and the individual and his or her employer shall prospectively commence participation in the retirement system as soon as practicable. Service credit for service prior
to the date on which the individual prospectively commences participation in the retirement system shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) of this section, including interest.

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-21. Correction of errors; underpayments; overpayments

(a) General rule: Upon learning of any errors, the board shall correct errors in the retirement system in a timely manner whether the individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and retirement board in the position each would have been in had the error not occurred.

(b) Underpayments to the system: Any error resulting in an underpayment to the system, may be corrected by the member or retirant remitting the required employee contribution or underpayment and the existing employer remitting the required employer contribution or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board Refund, Reinstatement, Retroactive Service, Loan and Correction of Error Interest Factors and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error shall be the responsibility of the participating public employer. The participating public employer may remit total payment and the employee reimburse the participating public employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment to the system will result in the system paying the retirant an additional amount, this additional payment shall be made only after the board receives full payment of all required...
employee and employer contributions or underpayments, including interest.

(c) Overpayments to the system by an employer: When mistaken or excess employer contributions or other employer overpayments have been made to the system, the board shall credit the employer with an amount computed by the board, to be offset against the employer's future liability for employer contributions to the system. If the employer has no future liability for employer contributions to the retirement system, the board shall refund the erroneous contributions directly to the employer.

(d) Overpayments to the retirement system by an employee: When mistaken or excess employee contributions or overpayments, have been made to the retirement system, the board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the individual making the mistaken or excess employee contribution of the amounts, and may use any means authorized or permitted under the provisions of section 401(a), et seq. of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the board may require the existing employer employing the individual to pay the individual the amounts as wages, with the board crediting the participating public employer with a corresponding amount to offset against its future contributions to the plan. If the employer has no future liability for employer contributions to the retirement system, the board shall refund said amount directly to the employer: Provided, That the wages paid to the individual are not considered compensation for any purposes of this article.

(e) Overpayments from the retirement system: If any error results in any member, retirant beneficiary, entity or other individual receiving from the system more than he would have been entitled to receive had the error not
occurred the board upon learning of the error shall correct the
error in a timely manner. If correction of the error occurs
after annuity payments to a retirant or beneficiary have
commenced, the board shall prospectively adjust the payment
of the benefit to the correct amount. In addition, the member,
retirant, beneficiary, entity or other person who received the
overpayment from the retirement system shall repay the
amount of any overpayment to the retirement system in any
manner permitted by the board. Interest shall not accumulate
on any corrective payment made to the retirement system
pursuant to this subsection.

(f) Underpayments from the retirement system: If any
error results in any member, retirant, beneficiary, entity or
other individual receiving from the retirement system less
than he would have been entitled to receive had the error not
occurred, the board, upon learning of the error, shall correct
the error in a timely manner. If correction of the error occurs
after annuity payments to a retirant or beneficiary have
commenced, the board shall prospectively adjust the payment
of the benefit to the correct amount. In addition, the board
shall pay the amount of such underpayment to the member,
retirant, beneficiary or other individual in a lump sum.
Interest shall not be paid on any corrective payment made by
the retirement system pursuant to this subsection.

(g) Eligibility errors: If the board finds that an individual,
employer, or both individual and employer currently or
formerly participating in the retirement system is not eligible
to participate, the board shall notify the individual and his or
her employer of the determination, and terminate
participation in the retirement system. Any erroneous
payments to the retirement system shall be returned to the
employer and individual in accordance with the methods
described in subsections (c) and (d) of this section and any
erroneous payments from the retirement system to such
individual shall be returned to the retirement system in
accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. Service credit for service prior to the date on which the individual prospectively commences participation in the retirement system shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) of this section, including interest.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-18. Correction of errors; underpayments; overpayments.

(a) General rule: Upon learning of any errors, the board shall correct errors in the retirement system in a timely manner whether the individual, entity or board was at fault for the error with the intent of placing the affected individual, entity and retirement board in the position each would have been in had the error not occurred.

(b) Underpayments to the system: Any error resulting in an underpayment to the system, may be corrected by the member or retirant remitting the required employee contribution or underpayment and the participating public employer remitting the required employer contribution or underpayment. Interest shall accumulate in accordance with the legislative rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and correction of error interest factors and any accumulating interest owed on the employee and employer contributions or underpayments resulting from an employer error shall be the responsibility of the participating public employer. The participating public employer may remit total payment and the employee reimburse the participating public employer through payroll deduction over a period equivalent to the
time period during which the employer error occurred. If the

23 correction of an error involving an underpayment to the

24 system will result in the system correcting an erroneous

25 underpayment from the system, the correction of the

26 underpayment from the system shall be made only after the

27 board receives full payment of all required employee and

28 employer contributions or underpayments, including interest.

(c) Overpayments to the retirement system by an

30 employer: When mistaken or excess employer contributions,

31 including any overpayments have been made to the

32 retirement system by a participating public employer, the

33 board, upon learning of the error, shall credit the participating

34 public employer with an amount equal to the overpayment, to

35 be offset against the employer’s future liability for employer

36 contributions to the system. If the employer has no future

37 liability for employer contributions to the retirement system,

38 the board shall refund the erroneous contributions directly to

39 the employer. Earnings or interest shall not be returned,

40 offset or credited to the employer under any of the means

41 used by the board for returning employer overpayments to the

42 retirement system.

(d) Overpayments to the retirement system by an

44 employee: When mistaken or excess employee contributions

45 or overpayments have been made to the retirement system,

46 the board, upon learning of the error, shall have sole authority

47 for determining the means of return, offset or credit to or for

48 the benefit of the individual making the mistaken or excess

49 employee contribution of the amounts, and may use any

50 means authorized or permitted under the provisions of section

51 401(a), *et seq.* of the Internal Revenue Code and guidance

52 issued thereunder applicable to governmental plans.

Alternatively, in its full and complete discretion, the board

54 may require the participating public employer employing the

55 individual to pay the individual the amounts as wages, with

56 the board crediting the participating public employer with a
corresponding amount to offset against its future contributions to the plan. If the employer has no future liability for employer contributions to the retirement system, the board shall refund said amount directly to the employer: Provided, That the wages paid to the individual shall not be considered compensation for any purposes of this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the board for returning employee overpayments.

(e) Overpayments from the retirement system: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the system more than he would have been entitled to receive had the error not occurred the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retirant, beneficiary, entity or other person who received the overpayment from the retirement system shall repay the amount of any overpayment to the retirement system in any manner permitted by the board. Interest shall not accumulate on any corrective payment made to the retirement system pursuant to this subsection.

(f) Underpayments from the retirement system: If any error results in any member, retirant, beneficiary, entity or other individual receiving from the retirement system less than he would have been entitled to receive had the error not occurred, the board, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum.
Interest shall not be paid on any corrective payment made by the retirement system pursuant to this subsection.

(g) Eligibility errors: If the board finds that an individual, employer, or both individual and employer, participating in the system is not eligible to participate, the board shall notify the individual and his or her employer of the determination, and terminate participation in the system. Any erroneous payments to the system shall be returned to the employer and individual in accordance with the methods described in subsections (c) and (d) of this section and any erroneous payments from the system to such individual shall be returned to the system in accordance with the methods described in subsection (e) of this section. Any erroneous service credited to the individual shall be removed. If the board determines that an individual or employer, or both, has not been participating in the system, but was eligible to and required to be participating in the system, the board shall as soon as practicable notify the individual and his or her employer of the determination, and the individual and his or her employer shall prospectively commence participation in the retirement system as soon as practicable. Service credit for service prior to the date on which the individual prospectively commences participation in the system shall be granted only if the board receives the required employer and employee contributions for such service, in accordance with subsection (b) of this section, including interest.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within .......................................................... this the .................... Day of .........................................................., 2015.

Governor