

SB529

FILED

2015 APR -3 A 10:47

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

OFFICE WEST VIRGINIA
SECRETARY OF STATE



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 529

(SENATORS GAUNCH AND CARMICHAEL, *ORIGINAL SPONSORS*)

[PASSED MARCH 18, 2015; IN EFFECT FROM PASSAGE.]

FILED

2015 APR -3 A 10:47

E N R O L L E D
COMMITTEE SUBSTITUTE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

FOR

Senate Bill No. 529

(SENATORS GAUNCH AND CARMICHAEL, *ORIGINAL SPONSORS*)

[Passed March 18, 2015; in effect from passage.]

AN ACT to amend and reenact §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-10-21a; to amend and reenact §5-13-2 of said code; to amend and reenact §5-16-13 of said code; to amend and reenact §15-2A-21 of said code; to amend and reenact §18-7A-17, §18-7A-23 and §18-7A-25 of said code; to amend said code by adding thereto two new sections, designated §18-7A-17a and §18-7A-25b; and to amend and reenact §18-7D-6, all relating generally to benefits and costs for certain members of the West Virginia Public Employees Retirement System, State Police Retirement System and Teachers Retirement System; calculating final average salary and service credit for certain public employees; authorizing purchase of military service for certain members of the West Virginia Public Employees Retirement System and Teachers Retirement System; providing military service credit

for certain members of the West Virginia Public Employees Retirement System; increasing contribution rate and years of contributing service required for certain public employees to qualify for certain annuities; providing for determination of years of service; providing that accrued annual and sick leave of certain employees participating in the West Virginia Public Employees Retirement System, the State Police Retirement System and the Teachers Retirement System may not be applied for retirement service credit; for a limited time permitting certain members of the Teachers Retirement System who transferred from the Teachers' Defined Contribution System to buy, with interest, their full service credit in the Teachers Retirement System; and revising the reciprocal retirement provisions for certain members of the teachers and the public employees system.

Be it enacted by the Legislature of West Virginia:

That §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §5-10-21a; that §5-13-2 of said code be amended and reenacted; that §5-16-13 of said code be amended and reenacted; that §15-2A-21 of said code be amended and reenacted; that §18-7A-17, §18-7A-23 and §18-7A-25 of said code be amended and reenacted; that said code be amended by adding thereto two new sections, designated §18-7A-17a and §18-7A-25b; and that §18-7D-6 of said code be amended and reenacted, 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.**

§5-10-2. Definitions.

1 Unless a different meaning is clearly indicated by the
2 context, the following words and phrases as used in this
3 article have the following meanings:

4 (1) "Accumulated contributions" means the sum of all
5 amounts deducted from the compensations of a member and
6 credited to his or her individual account in the members'
7 deposit fund, together with regular interest on the
8 contributions;

9 (2) "Accumulated net benefit" means the aggregate
10 amount of all benefits paid to or on behalf of a retired
11 member;

12 (3) "Actuarial equivalent" means a benefit of equal value
13 computed upon the basis of a mortality table and regular
14 interest adopted by the board of trustees from time to time:
15 *Provided*, That when used in the context of compliance with
16 the federal maximum benefit requirements of Section 415 of
17 the Internal Revenue Code, actuarial equivalent shall be
18 computed using the mortality tables and interest rates
19 required to comply with those requirements;

20 (4) "Annuity" means an annual amount payable by the
21 retirement system throughout the life of a person. All
22 annuities shall be paid in equal monthly installments,
23 rounding to the upper cent for any fraction of a cent;

24 (5) "Annuity reserve" means the present value of all
25 payments to be made to a retirant or beneficiary of a retirant
26 on account of any annuity, computed upon the basis of

27 mortality and other tables of experience, and regular interest,
28 adopted by the board of trustees from time to time;

29 (6) "Beneficiary" means any person, except a retirant,
30 who is entitled to, or will be entitled to, an annuity or other
31 benefit payable by the retirement system;

32 (7) "Board of Trustees" or "board" means the Board of
33 Trustees of the West Virginia Consolidated Public
34 Retirement System;

35 (8) "Compensation" means the remuneration paid a
36 member by a participating public employer for personal
37 services rendered by the member to the participating public
38 employer. In the event a member's remuneration is not all
39 paid in money, his or her participating public employer shall
40 fix the value of the portion of the remuneration which is not
41 paid in money. Any lump sum or other payments paid to
42 members that do not constitute regular salary or wage
43 payments are not considered compensation for the purpose of
44 withholding contributions for the system or for the purpose
45 of calculating a member's final average salary. These
46 payments include, but are not limited to, attendance or
47 performance bonuses, one-time flat fee or lump sum
48 payments, payments paid as a result of excess budget, or
49 employee recognition payments. The board shall have final
50 power to decide whether the payments shall be considered
51 compensation for purposes of this article;

52 (9) "Contributing service" means service rendered by a
53 member within this state and for which the member made
54 contributions to a public retirement system account of this state,
55 to the extent credited him or her as provided by this article;

56 (10) "Credited service" means the sum of a member's
57 prior service credit, military service credit, workers'

58 compensation service credit and contributing service credit
59 standing to his or her credit as provided in this article;

60 (11) "Employee" means any person who serves regularly
61 as an officer or employee, full time, on a salary basis, whose
62 tenure is not restricted as to temporary or provisional
63 appointment, in the service of, and whose compensation is
64 payable, in whole or in part, by any political subdivision, or
65 an officer or employee whose compensation is calculated on
66 a daily basis and paid monthly or on completion of
67 assignment, including technicians and other personnel
68 employed by the West Virginia National Guard whose
69 compensation, in whole or in part, is paid by the federal
70 government: *Provided*, That an employee of the Legislature
71 whose term of employment is otherwise classified as
72 temporary and who is employed to perform services required
73 by the Legislature for its regular sessions or during the
74 interim between regular sessions and who has been or is
75 employed during regular sessions or during the interim
76 between regular sessions in seven or more consecutive
77 calendar years, as certified by the clerk of the house in which
78 the employee served, is an employee, any provision to the
79 contrary in this article notwithstanding, and is entitled to
80 credited service in accordance with provisions of section
81 fourteen of this article: *Provided, however*, That members of
82 the legislative body of any political subdivision and judges of
83 the state Court of Claims are employees receiving one year of
84 service credit for each one-year term served and prorated
85 service credit for any partial term served, anything contained
86 in this article to the contrary notwithstanding. In any case of
87 doubt as to who is an employee within the meaning of this
88 article, the board of trustees shall decide the question;

89 (12) "Employer error" means an omission,
90 misrepresentation or violation of relevant provisions of the
91 West Virginia Code or of the West Virginia Code of State

92 Regulations or the relevant provisions of both the West
93 Virginia Code and of the West Virginia Code of State
94 Regulations by the participating public employer that has
95 resulted in an underpayment or overpayment of contributions
96 required. A deliberate act contrary to the provisions of this
97 section by a participating public employer does not constitute
98 employer error;

99 (13) "Final average salary" means either of the following:
100 *Provided*, That salaries for determining benefits during any
101 determination period may not exceed the maximum
102 compensation allowed as adjusted for cost of living in
103 accordance with section seven, article ten-d of this chapter
104 and Section 401 (a) (17) of the Internal Revenue Code:
105 *Provided, however*, That the provisions of section
106 twenty-two-h of this article are not applicable to the
107 amendments made to this subdivision during the 2011 regular
108 session of the Legislature;

109 (A) The average of the highest annual compensation
110 received by a member, including a member of the Legislature
111 who participates in the retirement system in the year 1971 or
112 thereafter, during any period of three consecutive years of
113 credited service contained within the member's fifteen years
114 of credited service immediately preceding the date his or her
115 employment with a participating public employer last
116 terminated: *Provided*, That for persons who were first hired
117 on or after July 1, 2015, any period of five consecutive years
118 of contributing service contained within the member's fifteen
119 years of credited service immediately preceding the date his
120 or her employment with a participating public employer last
121 terminated; or

122 (B) If the member has less than five years of credited
123 service, the average of the annual rate of compensation
124 received by the member during his or her total years of

125 credited service; and in determining the annual compensation,
126 under either paragraph (A) or (B) of this subdivision, of a
127 member of the Legislature who participates in the retirement
128 system as a member of the Legislature in the year 1971, or in
129 any year thereafter, his or her actual legislative compensation
130 (the total of all compensation paid under sections two, three,
131 four and five, article two-a, chapter four of this code), in the
132 year 1971, or in any year thereafter, plus any other
133 compensation he or she receives in any year from any other
134 participating public employer including the State of West
135 Virginia, without any multiple in excess of one times his or her
136 actual legislative compensation and other compensation, shall
137 be used: *Provided*, That final average salary for any former
138 member of the Legislature or for any member of the Legislature
139 in the year 1971 who, in either event, was a member of the
140 Legislature on November 30, 1968, or November 30, 1969, or
141 November 30, 1970, or on November 30 in any one or more of
142 those three years and who participated in the retirement system
143 as a member of the Legislature in any one or more of those
144 years means: (i) Either, notwithstanding the provisions of this
145 subdivision preceding this proviso, \$1,500 multiplied by eight,
146 plus the highest other compensation the former member or
147 member received in any one of the three years from any other
148 participating public employer including the State of West
149 Virginia; or (ii) final average salary determined in accordance
150 with paragraph (A) or (B) of this subdivision, whichever
151 computation produces the higher final average salary, and in
152 determining the annual compensation under subparagraph (ii)
153 of this paragraph, the legislative compensation of the former
154 member shall be computed on the basis of \$1,500 multiplied by
155 eight, and the legislative compensation of the member shall be
156 computed on the basis set forth in the provisions of this
157 subdivision immediately preceding this paragraph or on the
158 basis of \$1,500 multiplied by eight, whichever computation as
159 to the member produces the higher annual compensation;

160 (14) "Internal Revenue Code" means the Internal
161 Revenue Code of 1986, as amended, codified at Title 26 of
162 the United States Code;

163 (15) "Limited credited service" means service by
164 employees of the West Virginia Educational Broadcasting
165 Authority, in the employment of West Virginia University,
166 during a period when the employee made contributions to
167 another retirement system, as required by West Virginia
168 University, and did not make contributions to the Public
169 Employees Retirement System: *Provided*, That while limited
170 credited service can be used for the formula set forth in
171 subsection (e), section twenty-one of this article, it may not
172 be used to increase benefits calculated under section
173 twenty-two of this article;

174 (16) "Member" means any person who has accumulated
175 contributions standing to his or her credit in the members'
176 deposit fund;

177 (17) "Participating public employer" means the State of
178 West Virginia, any board, commission, department,
179 institution or spending unit and includes any agency created
180 by rule of the Supreme Court of Appeals having full-time
181 employees, which for the purposes of this article is
182 considered a department of state government; and any
183 political subdivision in the state which has elected to cover its
184 employees, as defined in this article, under the West Virginia
185 Public Employees Retirement System;

186 (18) "Plan year" means the same as referenced in section
187 forty-two of this article;

188 (19) "Political subdivision" means the State of West
189 Virginia, a county, city or town in the state; a school
190 corporation or corporate unit; any separate corporation or

191 instrumentality established by one or more counties, cities or
192 towns, as permitted by law; any corporation or
193 instrumentality supported in most part by counties, cities or
194 towns; and any public corporation charged by law with the
195 performance of a governmental function and whose
196 jurisdiction is coextensive with one or more counties, cities
197 or towns: *Provided*, That any mental health agency
198 participating in the Public Employees Retirement System
199 before July 1, 1997, is considered a political subdivision
200 solely for the purpose of permitting those employees who are
201 members of the Public Employees Retirement System to
202 remain members and continue to participate in the retirement
203 system at their option after July 1, 1997: *Provided, however*,
204 That the Regional Community Policing Institute which
205 participated in the Public Employees Retirement System
206 before July 1, 2000, is considered a political subdivision
207 solely for the purpose of permitting those employees who are
208 members of the Public Employees Retirement System to
209 remain members and continue to participate in the Public
210 Employees Retirement System after July 1, 2000;

211 (20) "Prior service" means service rendered prior to July
212 1, 1961, to the extent credited a member as provided in this
213 article;

214 (21) "Regular interest" means the rate or rates of interest
215 per annum, compounded annually, as the board of trustees
216 adopts from time to time;

217 (22) "Required beginning date" means April 1 of the
218 calendar year following the later of: (A) The calendar year in
219 which the member attains age seventy and one-half years of
220 age; or (B) the calendar year in which a member who has
221 attained the age seventy and one-half years of age and who
222 ceases providing service covered under this system to a
223 participating employer;

224 (23) "Retirant" means any member who commences an
225 annuity payable by the retirement system;

226 (24) "Retirement" means a member's withdrawal from
227 the employ of a participating public employer and the
228 commencement of an annuity by the retirement system;

229 (25) "Retirement system" or "system" means the West
230 Virginia Public Employees Retirement System created and
231 established by this article;

232 (26) "Retroactive service" means: (1) Service between
233 July 1, 1961, and the date an employer decides to become a
234 participating member of the Public Employees Retirement
235 System; (2) service prior to July 1, 1961, for which the
236 employee is not entitled to prior service at no cost in
237 accordance with 162 CSR 5.13; and (3) service of any
238 member of a legislative body or employees of the state
239 Legislature whose term of employment is otherwise
240 classified as temporary for which the employee is eligible,
241 but for which the employee did not elect to participate at
242 that time;

243 (27) "Service" means personal service rendered to a
244 participating public employer by an employee of a
245 participating public employer; and

246 (28) "State" means the State of West Virginia.

§5-10-14. Service credit; retroactive provisions.

1 (a) The board of trustees shall credit each member with
2 the prior service and contributing service to which he or she
3 is entitled based upon rules adopted by the board of trustees
4 and based upon the following:

5 (1) In no event may less than ten days of service rendered
6 by a member in any calendar month be credited as a month of
7 service: *Provided*, That for employees of the state
8 Legislature whose term of employment is otherwise classified
9 as temporary and who are employed to perform services
10 required by the Legislature for its regular sessions or during
11 the interim between regular sessions and who have been or
12 are so employed during regular sessions or during the interim
13 between regular sessions in seven consecutive calendar years,
14 service credit of one month shall be awarded for each ten
15 days employed in the interim between regular sessions, which
16 interim days shall be cumulatively calculated so that any ten
17 days, regardless of calendar month or year, shall be
18 calculated toward any award of one month of service credit;

19 (2) Except for hourly employees, and those persons who
20 first become members of the retirement system on or after
21 July 1, 2015, ten or more months of service credit earned in
22 any calendar year shall be credited as a year of service:
23 *Provided*, That no more than one year of service may be
24 credited to any member for all service rendered by him or her
25 in any calendar year and no days may be carried over by a
26 member from one calendar year to another calendar year
27 where the member has received a full-year credit for that
28 year; and

29 (3) Service may be credited to a member who was
30 employed by a political subdivision if his or her employment
31 occurred within a period of thirty years immediately
32 preceding the date the political subdivision became a
33 participating public employer.

34 (b) The board of trustees shall grant service credit to
35 employees of boards of health, the Clerk of the House of
36 Delegates and the Clerk of the State Senate or to any former
37 and present member of the State Teachers Retirement System

38 who have been contributing members for more than three
39 years, for service previously credited by the State Teachers
40 Retirement System and shall require the transfer of the
41 member's contributions to the system and shall also require
42 a deposit, with interest, of any withdrawals of contributions
43 any time prior to the member's retirement. Repayment of
44 withdrawals shall be as directed by the board of trustees.

45 (c) Court reporters who are acting in an official capacity,
46 although paid by funds other than the county commission or
47 State Auditor, may receive prior service credit for time served
48 in that capacity.

49 (d) Active members who previously worked in
50 Comprehensive Employment and Training Act (CETA) may
51 receive service credit for time served in that capacity:
52 *Provided*, That in order to receive service credit under the
53 provisions of this subsection the following conditions must be
54 met: (1) The member must have moved from temporary
55 employment with the participating employer to permanent
56 full-time employment with the participating employer within
57 one hundred twenty days following the termination of the
58 member's CETA employment; (2) the board must receive
59 evidence that establishes to a reasonable degree of certainty
60 as determined by the board that the member previously
61 worked in CETA; and (3) the member shall pay to the board
62 an amount equal to the employer and employee contribution
63 plus interest at the amount set by the board for the amount of
64 service credit sought pursuant to this subsection: *Provided*,
65 *however*, That the maximum service credit that may be
66 obtained under the provisions of this subsection is two years:
67 *Provided further*, That a member must apply and pay for the
68 service credit allowed under this subsection and provide all
69 necessary documentation by March 31, 2003: *And provided*
70 *further*, That the board shall exercise due diligence to notify
71 affected employees of the provisions of this subsection.

72 (e) (1) Employees of the state Legislature whose terms of
73 employment are otherwise classified as temporary and who
74 are employed to perform services required by the Legislature
75 for its regular sessions or during the interim time between
76 regular sessions shall receive service credit for the time
77 served in that capacity in accordance with the following: For
78 purposes of this section, the term "regular session" means day
79 one through day sixty of a sixty-day legislative session or day
80 one through day thirty of a thirty-day legislative session.
81 Employees of the state Legislature whose term of
82 employment is otherwise classified as temporary and who are
83 employed to perform services required by the Legislature for
84 its regular sessions or during the interim time between regular
85 sessions and who have been or are employed during regular
86 sessions or during the interim time between regular sessions
87 in seven consecutive calendar years, as certified by the clerk
88 of the house in which the employee served, shall receive
89 service credit of six months for all regular sessions served, as
90 certified by the clerk of the house in which the employee
91 served, or shall receive service credit of three months for
92 each regular thirty-day session served prior to 1971:
93 *Provided*, That employees of the state Legislature whose term
94 of employment is otherwise classified as temporary and who
95 are employed to perform services required by the Legislature
96 for its regular sessions and who have been or are employed
97 during the regular sessions in thirteen consecutive calendar
98 years as either temporary employees or full-time employees
99 or a combination thereof, as certified by the clerk of the
100 house in which the employee served, shall receive a service
101 credit of twelve months for each regular session served, as
102 certified by the clerk of the house in which the employee
103 served: *Provided, however*, That the amendments made to
104 this subsection during the 2002 regular session of the
105 Legislature only apply to employees of the Legislature who
106 are employed by the Legislature as either temporary
107 employees or full-time employees as of January 1, 2002, or

108 who become employed by the Legislature as temporary or
109 full-time employees for the first time after January 1, 2002.
110 Employees of the State Legislature whose terms of
111 employment are otherwise classified as temporary and who
112 are employed to perform services required by the Legislature
113 during the interim time between regular sessions shall receive
114 service credit of one month for each ten days served during
115 the interim between regular sessions, which interim days
116 shall be cumulatively calculated so that any ten days,
117 regardless of calendar month or year, shall be calculated
118 toward any award of one month of service credit: *Provided*
119 *further*, That no more than one year of service may be
120 credited to any temporary legislative employee for all service
121 rendered by that employee in any calendar year and no days
122 may be carried over by a temporary legislative employee
123 from one calendar year to another calendar year where the
124 member has received a full year credit for that year. Service
125 credit awarded for legislative employment pursuant to this
126 section shall be used for the purpose of calculating that
127 member's retirement annuity, pursuant to section twenty-two
128 of this article, and determining eligibility as it relates to
129 credited service, notwithstanding any other provision of this
130 section. Certification of employment for a complete
131 legislative session and for interim days shall be determined
132 by the clerk of the house in which the employee served,
133 based upon employment records. Service of fifty-five days
134 of a regular session constitutes an absolute presumption of
135 service for a complete legislative session and service of
136 twenty-seven days of a thirty-day regular session occurring
137 prior to 1971 constitutes an absolute presumption of service
138 for a complete legislative session. Once a legislative
139 employee has been employed during regular sessions for
140 seven consecutive years or has become a full-time employee
141 of the Legislature, that employee shall receive the service
142 credit provided in this section for all regular and interim
143 sessions and interim days worked by that employee, as

144 certified by the clerk of the house in which the employee
145 served, regardless of when the session or interim legislative
146 employment occurred: *And provided further*, That regular
147 session legislative employment for seven consecutive years
148 may be served in either or both houses of the Legislature.

149 (2) For purposes of this section, employees of the Joint
150 Committee on Government and Finance are entitled to the
151 same benefits as employees of the House of Delegates or the
152 Senate: *Provided*, That for joint committee employees whose
153 terms of employment are otherwise classified as temporary,
154 employment in preparation for regular sessions, certified by
155 the legislative manager as required by the Legislature for its
156 regular sessions, shall be considered the same as employment
157 during regular sessions to meet service credit requirements
158 for sessions served.

159 (f) Any employee may purchase retroactive service credit
160 for periods of employment in which contributions were not
161 deducted from the employee's pay. In the purchase of
162 service credit for employment prior to 1989 in any
163 department, including the Legislature, which operated from
164 the General Revenue Fund and which was not expressly
165 excluded from budget appropriations in which blanket
166 appropriations were made for the state's share of public
167 employees' retirement coverage in the years prior to 1989,
168 the employee shall pay the employee's share. Other
169 employees shall pay the state's share and the employee's
170 share to purchase retroactive service credit. Where an
171 employee purchases service credit for employment which
172 occurred after 1988, that employee shall pay for the
173 employee's share and the employer shall pay its share for the
174 purchase of retroactive service credit: *Provided*, That no
175 legislative employee and no current or former member of the
176 Legislature may be required to pay any interest or penalty
177 upon the purchase of retroactive service credit in accordance

178 with the provisions of this section where the employee was
179 not eligible to become a member during the years for which
180 he or she is purchasing retroactive credit or had the employee
181 attempted to contribute to the system during the years for
182 which he or she is purchasing retroactive service credit and
183 such contributions would have been refused by the board:
184 *Provided, however,* That a legislative employee purchasing
185 retroactive credit under this section does so within
186 twenty-four months of becoming a member of the system or
187 no later than December 31, 2008, whichever occurs last:
188 *Provided further,* That once a legislative employee becomes
189 a member of the retirement system, he or she may purchase
190 retroactive service credit for any time he or she was
191 employed by the Legislature and did not receive service
192 credit. Any service credit purchased shall be credited as six
193 months for each sixty-day session worked, three months for
194 each thirty-day session worked or twelve months for each
195 sixty-day session for legislative employees who have been
196 employed during regular sessions in thirteen consecutive
197 calendar years, as certified by the clerk of the house in which
198 the employee served, and credit for interim employment as
199 provided in this subsection: *And provided further,* That this
200 legislative service credit shall also be used for months of
201 service in order to meet the sixty-month requirement for the
202 payments of a temporary legislative employee member's
203 retirement annuity: *And provided further,* That no legislative
204 employee may be required to pay for any service credit
205 beyond the actual time he or she worked regardless of the
206 service credit which is credited to him or her pursuant to this
207 section: *And provided further,* That any legislative employee
208 may request a recalculation of his or her credited service to
209 comply with the provisions of this section at any time.

210 (g) (1) Notwithstanding any provision to the contrary, the
211 seven consecutive calendar years requirement and the thirteen
212 consecutive calendar years requirement and the service credit

213 requirements set forth in this section shall be applied
214 retroactively to all periods of legislative employment prior
215 to the passage of this section, including any periods of
216 legislative employment occurring before the seven
217 consecutive and thirteen consecutive calendar years
218 referenced in this section: *Provided*, That the employee has
219 not retired prior to the effective date of the amendments
220 made to this section in the 2002 regular session of the
221 Legislature.

222 (2) The requirement of seven consecutive years and the
223 requirement of thirteen consecutive years apply retroactively
224 to all legislative employment prior to the effective date of the
225 2006 amendments to this section.

226 (h) The board of trustees shall grant service credit to any
227 former or present member of the State Police Death,
228 Disability and Retirement Fund who has been a contributing
229 member of this system for more than three years for service
230 previously credited by the State Police Death, Disability and
231 Retirement Fund if the member transfers all of his or her
232 contributions to the State Police Death, Disability and
233 Retirement Fund to the system created in this article,
234 including repayment of any amounts withdrawn any time
235 from the State Police Death, Disability and Retirement Fund
236 by the member seeking the transfer allowed in this
237 subsection: *Provided*, That there shall be added by the
238 member to the amounts transferred or repaid under this
239 subsection an amount which shall be sufficient to equal the
240 contributions he or she would have made had the member
241 been under the Public Employees Retirement System during
242 the period of his or her membership in the State Police Death,
243 Disability and Retirement Fund, excluding contributions on
244 lump sum payment for annual leave, plus interest at a rate
245 determined by the board.

246 (i) The provisions of section twenty-two-h of this article
247 are not applicable to the amendments made to this section
248 during the 2006 regular session.

§5-10-15. Military service credit; qualified military service.

1 (a) (1) The Legislature recognizes the men and women of
2 this state who have served in the armed forces of the United
3 States during times of war, conflict and danger. It is the
4 intent of this subsection to confer military service credit upon
5 persons who are eligible at any time for public employees
6 retirement benefits for any time served in active duty in the
7 armed forces of the United States, regardless of whether the
8 person was a public employee at the time of entering the
9 military service.

10 (2) In addition to any benefit provided by federal law,
11 any member of the retirement system who has previously
12 served in or enters the active service of the armed forces of
13 the United States, including active duty in the National Guard
14 performed pursuant to Title 10 or Title 32 of the United
15 States Code, shall receive credited service for the time spent
16 in the armed forces of the United States, not to exceed five
17 years, if the member:

18 (A) Has been honorably discharged from the armed
19 forces; and

20 (B) Substantiates by appropriate documentation or
21 evidence his or her active military service.

22 If a member of the retirement system enters the active
23 service of the armed forces of the United States, the
24 member's contributions to the retirement system are
25 suspended during the period of the active service and until
26 the member's return to the employ of a participating public

27 employer, and any credit balance remaining in the member's
28 deposit fund shall accumulate regular interest: *Provided*,
29 That notwithstanding any provision in this article to the
30 contrary, if an employee of a participating political
31 subdivision serving on active duty in the military has
32 accumulated credited service prior to the last entry into
33 military service, in an amount that, added to the time in active
34 military service while an employee equals nine or more years,
35 and the member is unable to resume employment with a
36 participating employer upon completion of duty due to death
37 during or as a result of active service, all time spent in active
38 military service, up to and including a total of five years, is
39 considered to be credited service and death benefits are
40 vested in the member: *Provided, however*, That the active
41 service during the time the member is an employee must be
42 as a result of an order or call to duty, and not as a result of
43 volunteering for assignment or volunteering to extend the
44 time in service beyond the time required by order or call.

45 (b) Subsection (a) of this section does not apply to any
46 member who first becomes an employee of a participating
47 public employer on or after July 1, 2015. This subsection
48 does not apply to any member who first became an employee
49 of a participating public employer before July 1, 2015.

50 (1) A member who first becomes an employee of a
51 participating public employer on or after July 1, 2015, may
52 purchase up to sixty months of military service credit for time
53 served in active military duty prior to first becoming an
54 employee of a participating public employer if all of the
55 following conditions are met:

56 (A) The member has completed at least twelve
57 consecutive months of contributory service upon first
58 becoming an employee of a participating public employer;

59 (B) The active military duty occurs prior to the date on
60 which the member first becomes an employee of a
61 participating public employer; and

62 (C) The employee pays to the retirement system the
63 actuarial reserve purchase amount within forty-eight months
64 after the date on which employer and employee contributions
65 are first received by the retirement system for the member
66 and while he or she continues to be in the employ of a
67 participating public employer and contributing to the
68 retirement system: *Provided*, That any employee who ceases
69 employment with a participating public employer before
70 completing the required actuarial reserve purchase amount in
71 full shall not be eligible to purchase the military service.

72 (2) Notwithstanding paragraph (A), subdivision (1) of
73 this subsection, a member who first becomes an employee of
74 a participating public employer on or after July 1, 2015, but
75 who does not remain employed and contributing to the
76 retirement system for at least twelve consecutive months after
77 his or her initial employment, shall be considered to have met
78 the requirement of paragraph (A), subdivision (1) of this
79 subsection the first time he or she becomes an employee of a
80 participating public employer and completes at least twelve
81 consecutive months of contributing service. Such a member
82 shall be considered to have met the requirement of paragraph
83 (C), subdivision (1) of this subsection if he or she pays to the
84 retirement system the actuarial reserve purchase amount
85 within forty-eight months after the date on which employer
86 and employee contributions are first received by the
87 retirement system for the member the first time he or she
88 becomes an employee of a participating public employer and
89 completes at least twelve consecutive months of contributing
90 service, and while he or she continues to be in the employ of
91 a participating public employer and contributing to the
92 retirement system.

93 (3) Notwithstanding paragraph (A), subdivision (1) of
94 this subsection, a member who first becomes an employee of
95 a participating public employer on or after July 1, 2015, as an
96 elected official, shall be considered to have met the
97 requirement of paragraph (A), subdivision (1) of this
98 subsection after remaining employed for the first twelve
99 consecutive months of his or her term and first becoming an
100 employee, regardless of whether a salary is paid to the
101 employee for each such month. An elected official who does
102 not elect to begin participating in the retirement system upon
103 first becoming an employee of a participating public
104 employer as an elected official is not eligible to purchase
105 military service credit pursuant to subdivision (1) of this
106 subsection.

107 (4) A member who first becomes an employee of a
108 participating public employer on or after July 1, 2015, may
109 purchase military service credit for active military duty
110 performed on or after the date he or she first becomes an
111 employee of a participating public employer only if all of the
112 following conditions are met: *Provided*, That the maximum
113 military service credit such member may purchase shall take
114 into account any military service credit purchased for active
115 military duty pursuant to subdivision (1) of this subsection in
116 addition to any military service credit purchased pursuant to
117 this subdivision:

118 (A) The member was an employee of a participating
119 public employer, terminated employment and experienced a
120 break in contributing service in the retirement system of one
121 or more months, performed active military service while not
122 an employee of the participating public employer and not
123 contributing to the retirement system, then again becomes an
124 employee of a participating public employer and completes
125 at least twelve consecutive months of contributory service;

126 (B) The member does not qualify for military service
127 credit for such active military duty pursuant to subsection (d)
128 of this section; and

129 (C) The member pays to the retirement system the
130 actuarial reserve lump sum purchase amount within forty-
131 eight months after the date on which employer and employee
132 contributions are first received by the retirement system for
133 the member after he or she again becomes an employee of a
134 participating public employer immediately following the
135 period of active military duty and break in service and
136 completes at least twelve consecutive months of contributory
137 service and while he or she continues to be in the employ of
138 a participating public employer and contributing to the
139 retirement system.

140 (5) Notwithstanding paragraph (A), subdivision (4) of
141 this subsection, a member who otherwise meets the
142 requirements of said paragraph, but who does not remain
143 employed and contributing to the retirement system for at
144 least twelve consecutive months when he or she first becomes
145 an employee of a participating public employer after the
146 period of active military duty and break in service, shall be
147 considered to have met the requirement of paragraph (A),
148 subdivision (4) of this subsection the first time he or she
149 again becomes an employee of a participating public
150 employer and completes at least twelve consecutive months
151 of contributing service. Such a member shall be considered
152 to have met the requirement of paragraph (C), subdivision (4)
153 of this subsection if he or she pays to the retirement system
154 the actuarial reserve lump sum purchase amount within forty-
155 eight months after the date on which employer and employee
156 contributions are first received by the retirement system for
157 the member for the first time he or she again becomes an
158 employee of a participating public employer and completes
159 at least twelve consecutive months of contributing service,

160 and while he or she continues to be in the employ of a
161 participating public employer and contributing to the
162 retirement system.

163 (6) Notwithstanding paragraph (A), subdivision (4) of
164 this subsection, a member who becomes an employee of a
165 participating public employer after such a period of active
166 military duty and break in service as an elected official shall
167 be considered to have met the requirement of paragraph (A),
168 subdivision (4) of this subsection after remaining employed
169 for the first twelve consecutive months of his or her term after
170 again becoming an employee, regardless of whether a salary
171 is paid to the employee for each such month. Such an
172 individual must elect to begin participating in the retirement
173 system immediately upon again becoming an employee of a
174 participating public employer after the period of active
175 military duty and break in service.

176 (7) For purposes of this subsection, the following
177 definitions apply:

178 (A) "Active military duty" means full-time active duty in
179 the armed forces of the United States for a period of thirty or
180 more consecutive calendar days. Active military duty does
181 not include inactive duty of any kind.

182 (B) "Actuarial reserve purchase amount" means the
183 purchase annuity rate multiplied by the purchase accrued
184 benefit, calculated as of the calculation month, plus annual
185 interest accruing at seven and one-half percent from the
186 calculation month through the purchase month, compounded
187 monthly: *Provided*, That if the employee elects to pay the full
188 purchase amount on an installment or partial payment basis,
189 the actuarial reserve purchase amount will include the lump
190 sum payment plus additional interest accruing at seven and
191 one-half percent until the purchase amount is paid in full.

192 (C) "Armed forces of the United States" means the Army,
193 Navy, Air Force, Marine Corps and Coast Guard, the reserve
194 components thereof, and the National Guard of the United
195 States or the National Guard of a state or territory when
196 members of the same are on full-time active duty pursuant to
197 Title 10 or Title 32 of the United States Code.

198 (D) "Calculation month" means the month immediately
199 following the month in which the member completes the
200 twelve consecutive months of contributory service with a
201 participating public employer required by this subsection, as
202 applicable.

203 (E) "Purchase accrued benefit" means two percent times
204 the purchase military service times the purchase average
205 monthly salary.

206 (F) "Purchase age" means the age of the employee in
207 years and completed months as of the first day of the
208 calculation month.

209 (G) "Purchase annuity rate" means the actuarial lump
210 sum annuity factor calculated as of the calculation month
211 based on the following actuarial assumptions: Interest rate of
212 seven and one-half percent; mortality of the 1971 group
213 annuity mortality table, fifty percent blended male and female
214 rates, applied on a unisex basis to all members; if purchase
215 age is under age sixty-two, a deferred annuity factor with
216 payments commencing at age sixty-two; and if purchase age
217 is sixty-two or over, an immediate annuity factor with
218 payments starting at the purchase age.

219 (H) "Purchase average monthly salary" means the
220 average monthly salary of the member during the months two
221 through twelve of the twelve consecutive month period
222 required by this subsection of this section, as applicable.

223 (I) "Purchase military service" means the amount of
224 military service being purchased by the employee in months
225 up to the sixty-month maximum, calculated in accordance
226 with subdivision (9) of this subsection.

227 (J) "Purchase month" means the month in which the
228 employee deposits the actuarial reserve lump sum purchase
229 amount in full payment of the service credit being purchased
230 or makes the final payment of the actuarial reserve purchase
231 amount into the plan trust fund in full payment of the service
232 credit being purchased.

233 (8) A member may purchase military service credit for a
234 period of active military duty pursuant to this subsection only
235 if the member received an honorable discharge for such
236 period. Anything other than an honorable discharge,
237 including, but not limited to, a general or under honorable
238 conditions discharge, an entry-level separation discharge, an
239 other than honorable conditions discharge or a dishonorable
240 discharge, shall disqualify the member from receiving
241 military service credit for the period of service.

242 (9) To calculate the amount of military service credit a
243 member may purchase, the board shall add the total number
244 of days in each period of a member's active military duty
245 eligible to be purchased, divide the total by thirty, and round
246 up or down to the nearest integer (fractions of 0.5 shall be
247 rounded up), in order to yield the total number of months of
248 military service credit a member may purchase, subject to the
249 sixty-month maximum. A member may purchase all or part
250 of the maximum amount of military service credit he or she
251 is eligible for in one-month increments.

252 (10) To receive credit, a member must submit a request to
253 purchase military service credit to the board, on such form or in
254 such other manner as shall be required by the board, within the

255 twelve consecutive month period required by this subsection, as
256 applicable. The board shall then calculate the actuarial reserve
257 lump sum purchase amount, which amount must be paid by the
258 member within the 48-month period required by this subsection,
259 as applicable. A member purchasing military service credit
260 pursuant to this subsection must do so in a single, lump sum
261 payment: *Provided*, That the board may accept partial,
262 installment or other similar payments if the employee executes
263 a contract with the board specifying the amount of military
264 service to be purchased and the payments required: *Provided*,
265 *however*, That any failure to pay the contract amount in
266 accordance with this section shall be treated as an overpayment
267 or excess contribution subject to section forty-four of this article
268 and no military service shall be credited.

269 (11) The board shall require a member requesting military
270 service credit to provide official documentation establishing
271 that the requirements set forth in this subsection have been
272 met.

273 (12) Military service credit purchased pursuant to this
274 subsection may not be considered contributing service credit
275 or contributory service for purposes of this article.

276 (13) If a member who has purchased military service
277 credit pursuant to this subsection is eligible for and requests
278 a withdrawal of accumulated contributions pursuant to the
279 provisions of this article, he or she shall also receive a refund
280 of the actuarial reserve purchase amount he or she paid to the
281 retirement system to purchase military service credit, together
282 with regular interest on such amount.

283 (c) No period of military service may be used to obtain
284 credit in more than one retirement system administered by the
285 board and once used in any system, a period of military
286 service may not be used again in any other system.

287 (d) Notwithstanding the preceding provisions of this
288 section, contributions, benefits and service credit with respect
289 to qualified military service shall be provided in accordance
290 with Section 414(u) of the Internal Revenue Code and the
291 federal Uniformed Services Employment and Reemployment
292 Rights Act (USERRA), and regulations promulgated
293 thereunder, as the same may be amended from time to time.
294 For purposes of this section, "qualified military service" has
295 the same meaning as in Section 414(u) of the Internal
296 Revenue Code.

297 (e) In any case of doubt as to the period of service to be
298 credited a member under the provisions of this section, the
299 board has final power to determine the period.
300 Notwithstanding the provisions of section three-a of this
301 article, the provisions of this section are not subject to liberal
302 construction. The board is authorized to determine all
303 questions and make all decisions relating to this section and,
304 pursuant to the authority granted to the board in section one,
305 article ten-d of this chapter, may propose rules to administer
306 this section for legislative approval in accordance with the
307 provisions of article three, chapter twenty-nine-a of this code.

**§5-10-15a. Retirement credited service through member's use, as option,
of accrued annual or sick leave days.**

1 (a) Any member accruing annual leave or sick leave days
2 may, after June 27, 1988, elect to use the days at the time of
3 retirement to acquire additional credited service in this
4 retirement system. Except as provided in subsection (b) of
5 this section, the accrued days shall be applied on the basis of
6 two workdays credit granted for each one day of such
7 accrued annual or sick leave days, with each month of
8 retirement service credit to equal twenty workdays and with
9 any remainder of ten workdays or more to constitute a full
10 month of additional credit and any remainder of less than ten

11 workdays to be dropped and not used, notwithstanding any
12 provisions of the code to the contrary, including section
13 twelve, article sixteen of this chapter. Such credited service
14 shall be allowed and not deemed to controvert the
15 requirement of no more than twelve months credited service
16 in any year's period.

17 (b) For those persons who first become members of the
18 retirement system on or after July 1, 2015, accrued annual or
19 sick days may not be applied to acquire additional credited
20 service.

§5-10-20. Voluntary retirement.

1 (a) Except as provided in subsection (b) of this section,
2 any member who has attained or attains age sixty years and
3 has five or more years of credited service in force, at least
4 one year of which he or she was a contributing member of the
5 retirement system, may retire upon his or her written
6 application filed with the board of trustees setting forth at
7 what time, not less than thirty days nor more than ninety days
8 subsequent to the execution and filing thereof the member
9 desires to be retired: *Provided*, That on and after June 1,
10 1986, any person who becomes a new member of this
11 retirement system shall, in qualifying for retirement
12 hereunder, have five or more years of service, all of which
13 years shall be actual, contributory ones. Upon retirement, the
14 member shall receive an annuity provided for in section
15 twenty-two of this article.

16 (b) Any person who first becomes a member of the
17 retirement system on or after July 1, 2015, may retire upon
18 written application as provided in subsection (a) of this
19 section upon attaining the age of sixty-two with ten or more
20 years of service, all of which must be actual, contributing
21 years.

§5-10-21. Deferred retirement and early retirement.

1 (a) Except as provided in section twenty-one-a of this
2 article, any member who first becomes a member of the
3 retirement system before July 1, 2015, and who has five or
4 more years of credited service in force, of which at least three
5 years are contributing service, and who leaves the employ of
6 a participating public employer prior to his or her attaining
7 age sixty years for any reason except his or her disability
8 retirement or death, is entitled to an annuity computed
9 according to section twenty-two of this article, as that section
10 was in force as of the date of his or her separation from the
11 employ of a participating public employer: *Provided*, That he
12 or she does not withdraw his or her accumulated
13 contributions from the members' deposit fund: *Provided*,
14 *however*, That on and after July 1, 2002, any person who
15 becomes a new member of this retirement system shall, in
16 qualifying for retirement under this section, have five or more
17 years of service, all of which years shall be actual,
18 contributory ones. His or her annuity shall begin the first day
19 of the calendar month next following the month in which his
20 or her application for same is filed with the board of trustees
21 on or after his or her attaining age sixty-two years.

22 (b) Any member who qualifies for deferred retirement
23 benefits in accordance with subsection (a) of this section
24 and has ten or more years of credited service in force and
25 who has attained age fifty-five as of the date of his or her
26 separation, may, prior to the effective date of his or her
27 retirement, but not thereafter, elect to receive the actuarial
28 equivalent of his or her deferred retirement annuity as a
29 reduced annuity commencing on the first day of any
30 calendar month between his or her date of separation and
31 his or her attainment of age sixty-two years and payable
32 throughout his or her life.

33 (c) Any member who qualifies for deferred retirement
34 benefits in accordance with subsection (a) of this section and
35 has twenty or more years of credited service in force may
36 elect to receive the actuarial equivalent of his or her deferred
37 retirement annuity as a reduced annuity commencing on the
38 first day of any calendar month between his or her fifty-fifth
39 birthday and his or her attainment of age sixty-two years and
40 payable throughout his or her life.

41 (d) Notwithstanding any of the other provisions of this
42 section or of this article, except sections twenty-seven-a and
43 twenty-seven-b of this article, and pursuant to rules
44 promulgated by the board, and except for a person who first
45 becomes a member of the retirement system on or after July
46 1, 2015, any member who has thirty or more years of credited
47 service in force, at least three of which are contributing
48 service, and who elects to take early retirement, which for the
49 purposes of this subsection means retirement prior to age
50 sixty, whether an active employee or a separated employee at
51 the time of application, is entitled to the full computation of
52 annuity according to section twenty-two of this article, as that
53 section was in force as of the date of retirement application,
54 but with the reduced actuarial equivalent of the annuity the
55 member would have received if his or her benefit had
56 commenced at age sixty when he or she would have been
57 entitled to full computation of benefit without any reduction.

58 (e) Notwithstanding any of the other provisions of this
59 section or of this article, except sections twenty-seven-a and
60 twenty-seven-b of this article, and except for a person who
61 first becomes a member of the retirement system on or after
62 July 1, 2015, any member of the retirement system may
63 retire with full pension rights, without reduction of benefits,
64 if he or she is at least fifty-five years of age and the sum of
65 his or her age plus years of contributing service and limited
66 credited service, as defined in section two of this article,

67 equals or exceeds eighty: *Provided*, That on and after July 1,
68 2011, any person who becomes a new member of this
69 retirement system shall, in qualifying for retirement under
70 this subsection, have five or more years of service, all of
71 which years shall be actual, contributory ones. The member's
72 annuity shall begin the first day of the calendar month
73 immediately following the calendar month in which his or her
74 application for the annuity is filed with the board.

**§5-10-21a. Deferred retirement and early retirement for new members as
of July 1, 2015.**

1 (a) Any person who first becomes a member of the
2 retirement system on or after July 1, 2015, who has ten or
3 more years of contributing service and who leaves the
4 employ of a participating public employer prior to attaining
5 age sixty-two years for any reason except his or her disability
6 or death, is entitled to an annuity computed according to
7 section twenty-two of this article, as that section was in force
8 as of the date of his or her separation from the employ of a
9 participating public employer: *Provided*, That he or she does
10 not withdraw his or her accumulated contributions from the
11 members' deposit fund: *Provided, however*, That his or her
12 annuity shall begin the first day of the calendar month next
13 following the month in which his or her application for same
14 is filed with the board of trustees on or after his or her
15 attaining age sixty-four years.

16 (b) Any member who qualifies for deferred retirement
17 benefits in accordance with subsection (a) of this section and
18 has twenty or more years of contributing service in force is
19 entitled to an annuity computed as in subsection (a) of this
20 section: *Provided*, That his or her annuity shall begin the
21 first day of the calendar month next following the month in
22 which his or her application for same is filed with the board
23 of trustees on or after his or her attaining age sixty-three.

24 (c) Notwithstanding any of the other provisions of this
25 section or of this article, except sections twenty-seven-a and
26 twenty-seven-b of this article, and pursuant to rules
27 promulgated by the board, any member who first becomes a
28 member of the retirement system on or after July 1, 2015, has
29 ten or more years of contributing service in force, is currently
30 employed by a participating public employer and who elects
31 to take early retirement, which for the purposes of this
32 subsection means retirement following attainment of age
33 sixty but prior to attaining age sixty-two, is entitled to the full
34 computation of annuity according to section twenty-two of
35 this article but with the reduced actuarial equivalent of the
36 annuity the member would have received if his or her benefit
37 had commenced at age sixty-two when he or she would have
38 been entitled to full computation of benefit without any
39 reduction: *Provided*, That his or her annuity shall begin in the
40 first day of the calendar month next following the month in
41 which his or her application for same is filed with the board
42 of trustees on or after his or her attaining age sixty.

43 (d) Any member who first becomes a member of the
44 retirement system on or after July 1, 2015, and has twenty or
45 more years of contributing service in force, is currently
46 employed by a participating public employer and who elects to
47 take early retirement, which for the purposes of this subsection
48 means retirement following attainment of age fifty-seven but
49 prior to attaining age sixty-two, is entitled to the full
50 computation of annuity according to section twenty-two of this
51 article but with the reduced actuarial equivalent of the annuity
52 the member would have received if his or her benefit had
53 commenced at age sixty-two when he or she would have been
54 entitled to full computation of benefit without any reduction:
55 *Provided*, That his or her annuity shall begin in the first day of the
56 calendar month next following the month in which his or her
57 application for same is filed with the board of trustees on or
58 after his or her attaining age fifty-seven.

59 (e) Any member who first becomes a member of the
60 retirement system on or after July 1, 2015, and has thirty or
61 more years of contributing service in force, and who elects to
62 take early retirement, which for the purposes of this
63 subsection means retirement following attainment of age
64 fifty-five but prior to attaining age sixty-two, is entitled to the
65 full computation of annuity according to section twenty-two
66 of this article but with the reduced actuarial equivalent of the
67 annuity the member would have received if his or her benefit
68 had commenced at age sixty-two when he or she would have
69 been entitled to full computation of benefit without any
70 reduction: *Provided*, That his or her annuity shall begin the
71 first day of the calendar month next following the month in
72 which his or her application for same is filed with the board
73 of trustees on or after his or her attaining age fifty-five.

§5-10-29. Members' deposit fund; members' contributions; forfeitures.

1 (a) The members' deposit fund is hereby created. It shall
2 be the fund in which shall be accumulated, at regular interest,
3 the contributions deducted from the compensation of
4 members, and from which refunds of accumulated
5 contributions shall be paid and transfers made as provided in
6 this section.

7 (b) The contributions of a member to the retirement
8 system (including any member of the Legislature, except as
9 otherwise provided in subsection (g) of this section) shall be
10 a sum of not less than three and five-tenths percent of his or
11 her annual compensation but not more than four and
12 five-tenths percent of his or her annual compensation, as
13 determined by the board of trustees: *Provided*, That for
14 persons who first become members of the retirement system
15 on or after July 1, 2015, the contributions to the system shall
16 be six percent of his or her annual compensation beginning
17 July 1, 2015. The said contributions shall be made

18 notwithstanding that the minimum salary or wages provided
19 by law for any member shall be thereby changed. Each
20 member shall be deemed to consent and agree to the
21 deductions made and provided for herein. Payment of a
22 member's compensation less said deductions shall be a full
23 and complete discharge and acquittance of all claims and
24 demands whatsoever for services rendered by him or her to
25 a participating public employer, except as to benefits
26 provided by this article.

27 (c) The officer or officers responsible for making up the
28 payrolls for payroll units of the state government and for each
29 of the other participating public employers shall cause the
30 contributions, provided in subsection (b) of this section, to be
31 deducted from the compensations of each member in the
32 employ of the participating public employer, on each and
33 every payroll, for each and every payroll period, from the
34 date the member enters the retirement system to the date his
35 or her membership terminates. When deducted, each of said
36 amounts shall be paid by the participating public employer to
37 the retirement system; said payments to be made in such
38 manner and form, and in such frequency, and shall be
39 accompanied by such supporting data, as the board of trustees
40 shall from time to time prescribe. When paid to the
41 retirement system, each of said amounts shall be credited to
42 the members' deposit fund account of the member from
43 whose compensations said contributions were deducted.

44 (d) In addition to the contributions deducted from the
45 compensations of a member, as heretofore provided, a
46 member shall deposit in the members' deposit fund, by a
47 single contribution or by an increased rate of contribution as
48 approved by the board of trustees, the amounts he or she may
49 have withdrawn therefrom and not repaid thereto, together
50 with regular interest from the date of withdrawal to the date
51 of repayment. In no case shall a member be given credit for

52 service rendered prior to the date he or she withdrew his or
53 her contributions or accumulated contributions, as the case
54 may be, until he or she returns to the members' deposit fund
55 all amounts due the said fund by him or her.

56 (e) Upon the retirement of a member, or if a survivor
57 annuity becomes payable on account of his or her death, in
58 either event his or her accumulated contributions standing to
59 his or her credit in the members' deposit fund shall be
60 transferred to the retirement reserve fund.

61 (f) In the event an employee's membership in the
62 retirement system terminates and no annuity becomes or will
63 become payable on his or her account, any accumulated
64 contributions standing to his or her credit in the members'
65 deposit fund, unclaimed by the said employee, or his or her
66 legal representative, within three years from and after the date
67 his or her membership terminated, shall be transferred to the
68 income fund.

69 (g) Any member of the Legislature who is a member of
70 the retirement system and with respect to whom the term
71 "final average salary" includes a multiple of eight, pursuant
72 to the provisions of subdivision (13), section two of this
73 article, shall contribute to the retirement system on the basis
74 of his or her legislative compensation the sum of \$540 each
75 year he or she participates in the retirement system as a
76 member of the Legislature.

77 (h) Notwithstanding any other provisions of this article,
78 forfeitures under the system shall not be applied to increase
79 the benefits any member would otherwise receive under the
80 system.

**ARTICLE 13. PUBLIC EMPLOYEES' AND TEACHERS'
RECIPROCAL SERVICE CREDIT ACT.**

§5-13-2. Definitions.

1 The following words and phrases as used in this article,
2 unless a different meaning is clearly indicated by the context,
3 shall have the following meanings:

4 (a) “Accumulated contributions” means the sum of the
5 amounts deducted from the compensation of a member and
6 credited to his or her individual account in a state system,
7 together with interest, if any, credited thereto.

8 (b) “Annuity” means the annuity payable by a state
9 system.

10 (c) “Member” means a member of either the West
11 Virginia Public Employees Retirement System or the State
12 Teachers Retirement System. The term “member” does not
13 include any person who has retired under either state system.

14 (d) “Public final average salary” means a member’s final
15 average salary computed according to the law governing the
16 public system. In computing his or her public final average
17 salary, the compensation, if any, received by the member for
18 services rendered in positions covered by the teacher system
19 shall be used in the same manner as if the compensation were
20 received for services covered by the public system:
21 *Provided*, That for persons who first became members of the
22 retirement system on or after July 1, 2015, no compensation
23 for services rendered in positions covered by the teacher
24 system may be used to compute his or her public system final
25 average salary.

26 (e) “Public system” means the West Virginia Public
27 Employees Retirement System established in article ten of
28 this chapter.

29 (f) "Reciprocal service credit" for a member of the public
30 system who subsequently becomes a member of the teacher
31 system, or vice versa, means the sum of his or her credited
32 service in force acquired as a member of the public system
33 and his or her credited service in force acquired as a member
34 of the teacher system: *Provided*, That persons who first
35 became members of the public system or teacher system on
36 or after July 1, 2015, must be employed and contributed for
37 ten years or more in each system to receive reciprocal service
38 credit.

39 (g) "State system" means the West Virginia Public
40 Employees Retirement System and the State Teachers
41 Retirement System.

42 (h) "Teacher final average salary" means a member's
43 final average salary computed according to the law governing
44 the teacher system. In computing his or her teacher final
45 average salary, the compensation, if any, received by the
46 member for services rendered in positions covered by the
47 public system shall be used in the same manner as if the
48 compensation were received for services covered by the
49 teacher system: *Provided*, That for persons who first became
50 members of the retirement system on or after July 1, 2015, no
51 compensation for services rendered in positions covered by
52 the public system may be used to compute his or her teacher
53 system final average salary.

54 (i) "Teacher system" means the State Teachers
55 Retirement System established in article seven-a, chapter
56 eighteen of this code.

57 (j) The masculine gender includes the feminine, and
58 words of the singular number with respect to persons include
59 the plural number, and vice versa.

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan, limiting employer contribution.

1 (a) *Cost-sharing.* – The director shall provide under any
2 contract or contracts entered into under the provisions of this
3 article that the costs of any group hospital and surgical
4 insurance, group major medical insurance, group prescription
5 drug insurance, group life and accidental death insurance
6 benefit plan or plans shall be paid by the employer and
7 employee.

8 (b) *Spouse and dependent coverage.* – Each employee is
9 entitled to have his or her spouse and dependents included in
10 any group hospital and surgical insurance, group major
11 medical insurance or group prescription drug insurance
12 coverage to which the employee is entitled to participate:
13 *Provided,* That the spouse and dependent coverage is limited
14 to excess or secondary coverage for each spouse and
15 dependent who has primary coverage from any other source.
16 For purposes of this section, the term “primary coverage”
17 means individual or group hospital and surgical insurance
18 coverage or individual or group major medical insurance
19 coverage or group prescription drug coverage in which the
20 spouse or dependent is the named insured or certificate
21 holder. For the purposes of this section, “dependent”
22 includes an eligible employee’s unmarried child or stepchild
23 under the age of twenty-five if that child or stepchild meets
24 the definition of a “qualifying child” or a “qualifying

25 relative” in Section 152 of the Internal Revenue Code. The
26 director may require proof regarding spouse and dependent
27 primary coverage and shall adopt rules governing the nature,
28 discontinuance and resumption of any employee’s coverage
29 for his or her spouse and dependents.

30 (c) *Continuation after termination.* – If an employee
31 participating in the plan is terminated from employment
32 involuntarily or in reduction of work force, the employee’s
33 insurance coverage provided under this article shall continue
34 for a period of three months at no additional cost to the
35 employee and the employer shall continue to contribute the
36 employer’s share of plan premiums for the coverage. An
37 employee discharged for misconduct shall not be eligible for
38 extended benefits under this section. Coverage may be
39 extended up to the maximum period of three months, while
40 administrative remedies contesting the charge of misconduct
41 are pursued. If the discharge for misconduct be upheld, the
42 full cost of the extended coverage shall be reimbursed by the
43 employee. If the employee is again employed or recalled to
44 active employment within twelve months of his or her prior
45 termination, he or she shall not be considered a new enrollee
46 and may not be required to again contribute his or her share
47 of the premium cost, if he or she had already fully contributed
48 such share during the prior period of employment.

49 (d) *Conversion of accrued annual and sick leave for*
50 *extended insurance coverage upon retirement for employees*
51 *who elected to participate in the plan before July, 1988.* –
52 Except as otherwise provided in subsection (g) of this
53 section, when an employee participating in the plan, who
54 elected to participate in the plan before July 1, 1988, is
55 compelled or required by law to retire before reaching the age
56 of sixty-five, or when a participating employee voluntarily
57 retires as provided by law, that employee’s accrued annual
58 leave and sick leave, if any, shall be credited toward an

59 extension of the insurance coverage provided by this article,
60 according to the following formulae: The insurance coverage
61 for a retired employee shall continue one additional month
62 for every two days of annual leave or sick leave, or both,
63 which the employee had accrued as of the effective date of
64 his or her retirement. For a retired employee, his or her
65 spouse and dependents, the insurance coverage shall continue
66 one additional month for every three days of annual leave or
67 sick leave, or both, which the employee had accrued as of the
68 effective date of his or her retirement.

69 (e) *Conversion of accrued annual and sick leave for*
70 *extended insurance coverage upon retirement for employees*
71 *who elected to participate in the plan after June, 1988. –*
72 Notwithstanding subsection (d) of this section, and except as
73 otherwise provided in subsections (g) and (l) of this section,
74 when an employee participating in the plan who elected to
75 participate in the plan on and after July 1, 1988, is compelled
76 or required by law to retire before reaching the age of
77 sixty-five, or when the participating employee voluntarily
78 retires as provided by law, that employee's annual leave or
79 sick leave, if any, shall be credited toward one half of the
80 premium cost of the insurance provided by this article, for
81 periods and scope of coverage determined according to the
82 following formulae: (1) One additional month of single
83 retiree coverage for every two days of annual leave or sick
84 leave, or both, which the employee had accrued as of the
85 effective date of his or her retirement; or (2) one additional
86 month of coverage for a retiree, his or her spouse and
87 dependents for every three days of annual leave or sick leave,
88 or both, which the employee had accrued as of the effective
89 date of his or her retirement. The remaining premium cost
90 shall be borne by the retired employee if he or she elects the
91 coverage. For purposes of this subsection, an employee who
92 has been a participant under spouse or dependent coverage
93 and who reenters the plan within twelve months after

94 termination of his or her prior coverage shall be considered
95 to have elected to participate in the plan as of the date of
96 commencement of the prior coverage. For purposes of this
97 subsection, an employee shall not be considered a new
98 employee after returning from extended authorized leave on
99 or after July 1, 1988.

100 **(f) *Increased retirement benefits for retired employees***
101 ***with accrued annual and sick leave.*** – In the alternative to the
102 extension of insurance coverage through premium payment
103 provided in subsections (d) and (e) of this section, the
104 accrued annual leave and sick leave of an employee
105 participating in the plan may be applied, on the basis of two
106 days' retirement service credit for each one day of accrued
107 annual and sick leave, toward an increase in the employee's
108 retirement benefits with those days constituting additional
109 credited service in computation of the benefits under any
110 state retirement system: *Provided*, That for a person who first
111 becomes a member of the Teachers Retirement System as
112 provided in article seven-a, chapter eighteen of this code on
113 or after July 1, 2015, accrued annual and sick leave of an
114 employee participating in the plan may not be applied for
115 retirement service credit. However, the additional credited
116 service shall not be used in meeting initial eligibility for
117 retirement criteria, but only as additional service credited in
118 excess thereof.

119 **(g) *Conversion of accrued annual and sick leave for***
120 ***extended insurance coverage upon retirement for certain***
121 ***higher education employees.*** – Except as otherwise provided
122 in subsection (l) of this section, when an employee, who is a
123 higher education full-time faculty member employed on an
124 annual contract basis other than for twelve months, is
125 compelled or required by law to retire before reaching the age
126 of sixty-five, or when such a participating employee
127 voluntarily retires as provided by law, that employee's

128 insurance coverage, as provided by this article, shall be
129 extended according to the following formulae: The insurance
130 coverage for a retired higher education full-time faculty
131 member, formerly employed on an annual contract basis other
132 than for twelve months, shall continue beyond the effective
133 date of his or her retirement one additional year for each three
134 and one-third years of teaching service, as determined by
135 uniform guidelines established by the University of West
136 Virginia Board of Trustees and the board of directors of the
137 state college system, for individual coverage, or one
138 additional year for each five years of teaching service for
139 family coverage.

140 (h) Any employee who retired prior to April 21, 1972,
141 and who also otherwise meets the conditions of the "retired
142 employee" definition in section two of this article, shall be
143 eligible for insurance coverage under the same terms and
144 provisions of this article. The retired employee's premium
145 contribution for any such coverage shall be established by the
146 finance board.

147 (i) *Retiree participation.* – All retirees under the
148 provisions of this article, including those defined in section
149 two of this article; those retiring prior to April 21, 1972; and
150 those hereafter retiring are eligible to obtain health insurance
151 coverage. The retired employee's premium contribution for
152 the coverage shall be established by the finance board.

153 (j) *Surviving spouse and dependent participation.* – A
154 surviving spouse and dependents of a deceased employee,
155 who was either an active or retired employee participating in
156 the plan just prior to his or her death, are entitled to be
157 included in any comprehensive group health insurance
158 coverage provided under this article to which the deceased
159 employee was entitled, and the spouse and dependents shall
160 bear the premium cost of the insurance coverage. The

161 finance board shall establish the premium cost of the
162 coverage.

163 (k) *Elected officials.* – In construing the provisions of this
164 section or any other provisions of this code, the Legislature
165 declares that it is not now nor has it ever been the
166 Legislature’s intent that elected public officials be provided
167 any sick leave, annual leave or personal leave, and the
168 enactment of this section is based upon the fact and
169 assumption that no statutory or inherent authority exists
170 extending sick leave, annual leave or personal leave to
171 elected public officials and the very nature of those positions
172 preclude the arising or accumulation of any leave, so as to be
173 thereafter usable as premium paying credits for which the
174 officials may claim extended insurance benefits.

175 (l) *Participation of certain former employees.* – An
176 employee, eligible for coverage under the provisions of this
177 article who has twenty years of service with any agency or
178 entity participating in the public employees insurance
179 program or who has been covered by the public employees
180 insurance program for twenty years may, upon leaving
181 employment with a participating agency or entity, continue
182 to be covered by the program if the employee pays one
183 hundred five percent of the cost of retiree coverage:
184 *Provided,* That the employee shall elect to continue coverage
185 under this subsection within two years of the date the
186 employment with a participating agency or entity is
187 terminated.

188 (m) *Prohibition on conversion of accrued annual and*
189 *sick leave for extended coverage upon retirement for new*
190 *employees who elect to participate in the plan after June,*
191 *2001.* – Any employee hired on or after July 1, 2001, who
192 elects to participate in the plan may not apply accrued annual
193 or sick leave toward the cost of premiums for extended

194 insurance coverage upon his or her retirement. This
195 prohibition does not apply to the conversion of accrued
196 annual or sick leave for increased retirement benefits, as
197 authorized by this section: *Provided*, That any person who
198 has participated in the plan prior to July 1, 2001, is not a new
199 employee for purposes of this subsection if he or she becomes
200 reemployed with an employer participating in the plan within
201 two years following his or her separation from employment
202 and he or she elects to participate in the plan upon his or her
203 reemployment.

204 (n) *Prohibition on conversion of accrued years of*
205 *teaching service for extended coverage upon retirement for*
206 *new employees who elect to participate in the plan July,*
207 *2009.* – Any employee hired on or after July 1, 2009, who
208 elects to participate in the plan may not apply accrued years
209 of teaching service toward the cost of premiums for extended
210 insurance coverage upon his or her retirement.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-21. Retirement credited service through member's use, as option, of accrued annual or sick leave days.

1 Any member accruing annual leave or sick leave days
2 may, after April 9, 2005, elect to use the days at the time of
3 retirement to acquire additional credited service in this
4 retirement system. The days shall be applied on the basis of
5 two workdays' credit granted for each one day of accrued
6 annual or sick leave days, with each month of retirement
7 service credit to equal twenty workdays and with any
8 remainder of ten workdays or more to constitute a full month
9 of additional credit and any remainder of less than ten

10 workdays to be dropped and not used, notwithstanding any
11 provisions of the code to the contrary: *Provided*, That for a
12 person who first becomes a member of the retirement system
13 on or after July 1, 2015, accrued annual and sick leave days
14 may not be applied to acquire additional credited service.
15 The credited service shall be allowed and not considered to
16 controvert the requirement of no more than twelve months'
17 credited service in any year's period.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

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

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

11 (b) For service as a teacher in the employment of the
12 federal government, or a state or territory of the United
13 States, or a governmental subdivision of that state or territory,
14 the retirement board shall grant credit to the member:
15 *Provided*, That the member shall pay to the system twelve
16 percent of that member's gross salary earned during the first
17 full year of current employment whether a member of the
18 Teachers Retirement System or the Teachers' Defined
19 Contribution Retirement System, times the number of years
20 for which credit is granted, plus interest at a rate to be

21 determined by the retirement board. The interest shall be
22 deposited in the reserve fund and service credit granted at the
23 time of retirement shall not exceed the lesser of ten years or
24 fifty percent of the member's total service as a teacher in West
25 Virginia. Any purchase of out-of-state service, as provided in
26 this article, shall not be used to establish eligibility for a
27 retirement allowance and the retirement board shall grant credit
28 for the purchased service as additional service only: *Provided,*
29 *however,* That a purchase of out-of-state service is prohibited if
30 the service is used to obtain a retirement benefit from another
31 retirement system: *Provided further,* That salaries paid to
32 members for service prior to entrance into the retirement system
33 shall not be used to compute the average final salary of the
34 member under the retirement system.

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

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

55 (e) The Teachers Retirement System shall grant service
56 credit to any former or present member of the West Virginia
57 Public Employees Retirement System who has been a
58 contributing member of the Teachers Retirement System for
59 more than three years, for service previously credited by the
60 Public Employees Retirement System upon his or her written
61 request and: (1) Shall require the transfer of the member's
62 Public Employees Retirement System accumulated
63 contributions to the Teachers Retirement System; or (2) shall
64 require a repayment of the amount withdrawn from the Public
65 Employees Retirement System, plus interest at a rate to be
66 determined by the retirement board, compounded annually
67 from the date of withdrawal to the date of payment, any time
68 prior to the member's effective retirement date: *Provided*,
69 That there shall be added by the member to the amounts
70 transferred or repaid under this subsection an amount which
71 shall be sufficient to equal the contributions he or she would
72 have made had the member been under the Teachers
73 Retirement System during the period of his or her
74 membership in the Public Employees Retirement System,
75 plus interest at a rate determined by the retirement board,
76 compounded annually from the date the additional
77 contribution would have been made had the member been
78 under the Teachers Retirement System to the date of
79 payment. All interest paid or transferred shall be deposited in
80 the reserve fund.

81 (f) For service as a teacher in an elementary or secondary
82 parochial school, located within this state and fully accredited
83 by the West Virginia Department of Education, the retirement
84 board shall grant credit to the member: *Provided*, That the
85 member shall pay to the system twelve percent of that
86 member's gross salary earned during the first full year of
87 current employment whether a member of the Teachers
88 Retirement System or the Teachers' Defined Contribution
89 Retirement System, times the number of years for which

90 credit is granted, plus interest at a rate to be determined by
91 the retirement board. The interest shall be deposited in the
92 reserve fund and service granted at the time of retirement
93 shall not exceed the lesser of ten years or fifty percent of the
94 member's total service as a teacher in the West Virginia
95 public school system. Any purchase of parochial school
96 service, as provided in this section, may not be used to
97 establish eligibility for a retirement allowance and retirement
98 board shall grant credit for the purchase as additional service
99 only: *Provided, however,* That a purchase of parochial school
100 service is prohibited if the service is used to obtain a
101 retirement benefit from another retirement system.

102 (g) Active members who previously worked in
103 Comprehensive Employment and Training Act (CETA) may
104 receive service credit for time served in that capacity:
105 *Provided,* That in order to receive service credit under the
106 provisions of this subsection the following conditions must be
107 met: (1) The member must have moved from temporary
108 employment with the participating employer to permanent
109 full-time employment with the participating employer within
110 one hundred twenty days following the termination of the
111 member's CETA employment; (2) the retirement board must
112 receive evidence that establishes to a reasonable degree of
113 certainty as determined by the retirement board that the
114 member previously worked in CETA; and (3) the member
115 shall pay to the retirement board an amount equal to the
116 employer and employee contribution plus interest at the
117 amount set by the retirement board for the amount of service
118 credit sought pursuant to this subsection: *Provided, however,*
119 That the maximum service credit that may be obtained under
120 the provisions of this subsection is two years: *Provided*
121 *further,* That a member must apply and pay for the service
122 credit allowed under this subsection and provide all necessary
123 documentation by March 31, 2003: *And provided further,*
124 That the retirement board shall exercise due diligence to

125 notify affected employees of the provisions of this
126 subsection.

127 (h) If a member is not eligible for prior service credit or
128 pension as provided in this article, then his or her prior
129 service shall not be considered a part of his or her total
130 service.

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

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

143 (k) Notwithstanding any provision of this article to the
144 contrary, when a member is or has been elected to serve as a
145 member of the Legislature, and the proper discharge of his or
146 her duties of public office require that member to be absent
147 from his or her teaching or administrative duties, the time
148 served in discharge of his or her duties of the legislative
149 office are credited as time served for purposes of computing
150 service credit: *Provided*, That the retirement board may not
151 require any additional contributions from that member in
152 order for the retirement board to credit him or her with the
153 contributing service credit earned while discharging official
154 legislative duties: *Provided, however*, That nothing in this
155 section may be construed to relieve the employer from
156 making the employer contribution at the member's regular

157 salary rate or rate of pay from that employer on the
158 contributing service credit earned while the member is
159 discharging his or her official legislative duties. These
160 employer payments shall commence as of June 1, 2000:
161 *Provided further*, That any member to which the provisions
162 of this subsection apply may elect to pay to the retirement
163 board an amount equal to what his or her contribution
164 would have been for those periods of time he or she was
165 serving in the Legislature. The periods of time upon which
166 the member paid his or her contribution shall then be
167 included for purposes of determining his or her final
168 average salary as well as for determining years of service:
169 *And provided further*, That a member using the provisions
170 of this subsection is not required to pay interest on any
171 contributions he or she may decide to make.

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

§18-7A-17a. Qualified military service.

1 (a) Except as provided in subsection (b) of this section,
2 for the purpose of this article, the retirement board shall grant
3 prior service credit to members of the retirement system who
4 were honorably discharged from active duty service in any of
5 the armed forces of the United States in any period of
6 national emergency within which a federal Selective Service
7 Act was in effect. For purposes of this section, "armed
8 forces" includes Women's Army Corps, women's appointed
9 volunteers for emergency service, Army Nurse Corps,
10 SPARS, Women's Reserve and other similar units officially
11 part of the military service of the United States. The military
12 service is considered equivalent to public school teaching,
13 and the salary equivalent for each year of that service is the
14 actual salary of the member as a teacher for his or her first
15 year of teaching after discharge from military service. Prior
16 service credit for military service shall not exceed ten years
17 for any one member, nor shall it exceed twenty-five percent
18 of total service at the time of retirement. Notwithstanding the
19 preceding provisions of this subsection, contributions,
20 benefits and service credit with respect to qualified military
21 service shall be provided in accordance with Section 414(u)
22 of the Internal Revenue Code. For purposes of this section,
23 "qualified military service" has the same meaning as in
24 Section 414(u) of the Internal Revenue Code. The retirement
25 board is authorized to determine all questions and make all
26 decisions relating to this section and, pursuant to the
27 authority granted to the retirement board in section one,
28 article ten-d, chapter five of this code, may promulgate rules
29 relating to contributions, benefits and service credit to
30 comply with Section 414(u) of the Internal Revenue Code.
31 No military service credit may be used in more than one
32 retirement system administered by the Consolidated Public
33 Retirement Board.

34 (b) Subsection (a) of this section does not apply to any
35 member who first becomes an employee of a participating
36 public employer on or after July 1, 2015. This subsection
37 applies to any member who first became an employee of a
38 participating public employer on or after July 1, 2015, and
39 also applies to any member who became an employee of a
40 participating public employer before July 1, 2015, and is
41 unable to meet the requirements of subsection (a) of this
42 section.

43 (1) Any member may purchase up to sixty months of
44 military service credit for time served in active military duty
45 prior to first becoming an employee of a participating public
46 employer if all of the following conditions are met:

47 (A) The member has completed a complete fiscal year of
48 contributory service;

49 (B) The active military duty occurs prior to the date on
50 which the member first becomes an employee of a
51 participating public employer; and

52 (C) The employee pays to the retirement system the
53 actuarial reserve purchase amount within forty-eight months
54 after the date on which employer and employee contributions
55 are first received by the retirement system for the member and
56 while he or she continues to be in the employ of a participating
57 public employer and contributing to the retirement system, or
58 within forty-eight months of July 1, 2015, whichever is later:
59 *Provided*, That any employee who ceases employment with a
60 participating public employer before completing the required
61 actuarial reserve purchase amount in full shall not be eligible to
62 purchase the military service.

63 (2) Notwithstanding paragraph (A), subdivision (1) of
64 this subsection, a member who first becomes an employee of

65 a participating public employer on or after July 1, 2015, but
66 who does not remain employed and contributing to the
67 retirement system for at least a complete fiscal year after his
68 or her initial employment, shall be considered to have met the
69 requirement of said paragraph the first time he or she
70 becomes an employee of a participating public employer and
71 completes at least a complete fiscal year of contributing
72 service. Such a member shall be considered to have met the
73 requirement of paragraph (C) of said subdivision if he or she
74 pays to the retirement system the actuarial reserve purchase
75 amount within forty-eight months after the date on which
76 employer and employee contributions are first received by the
77 retirement system for the member the first time he or she
78 becomes an employee of a participating public employer and
79 completes at least a complete fiscal year of contributing
80 service, and while he or she continues to be in the employ of
81 a participating public employer and contributing to the
82 retirement system.

83 (3) A member who first becomes an employee of a
84 participating public employer on or after July 1, 2015, may
85 purchase military service credit for active military duty
86 performed on or after the date he or she first becomes an
87 employee of a participating public employer only if all of the
88 following conditions are met: *Provided*, That the maximum
89 military service credit such member may purchase shall take
90 into account any military service credit purchased for active
91 military duty pursuant to subdivision (1) of this subsection in
92 addition to any military service credit purchased pursuant to
93 this subdivision:

94 (A) The member was an employee of a participating
95 public employer, terminated employment and experienced a
96 break in contributing service in the retirement system of one
97 or more months, performed active military service while not
98 an employee of the participating public employer and not

99 contributing to the retirement system, then again becomes an
100 employee of a participating public employer and completes
101 at least a complete fiscal year of contributory service;

102 (B) The member does not qualify for military service
103 credit for such active military duty pursuant to subsection (d)
104 of this section; and

105 (C) The member pays to the retirement system the
106 actuarial reserve purchase amount within forty-eight months
107 after the date on which employer and employee contributions
108 are first received by the retirement system for the member
109 after he or she again becomes an employee of a participating
110 public employer immediately following the period of active
111 military duty and break in service and completes at least a
112 complete fiscal year of contributory service, and while he or
113 she continues to be in the employ of a participating public
114 employer and contributing to the retirement system.

115 (4) Notwithstanding paragraph (A), subdivision (3) of this
116 subsection, a member who otherwise meets the requirements of
117 said paragraph, but who does not remain employed and
118 contributing to the retirement system for at least a complete
119 fiscal year when he or she first becomes an employee of a
120 participating public employer after the period of active military
121 duty and break in service, shall be considered to have met the
122 requirement of said paragraph the first time he or she again
123 becomes an employee of a participating public employer and
124 completes at least a complete fiscal year of contributing service.
125 Such a member shall be considered to have met the requirement
126 of paragraph (C) of said subdivision if he or she pays to the
127 retirement system the actuarial reserve purchase amount within
128 forty-eight months after the date on which employer and
129 employee contributions are first received by the retirement
130 system for the member for the first time he or she again
131 becomes an employee of a participating public employer and

132 completes at least a complete fiscal year of contributing service,
133 and while he or she continues to be in the employ of a
134 participating public employer and contributing to the retirement
135 system.

136 (5) For purposes of this subsection, the following
137 definitions shall apply:

138 (A) "Active military duty" means full-time active duty in
139 the armed forces of the United States for a period of thirty or
140 more consecutive calendar days. Active military duty does
141 not include inactive duty of any kind.

142 (B) "Actuarial reserve purchase amount" means the
143 purchase annuity rate multiplied by the purchase accrued
144 benefit, calculated as of the calculation month, plus annual
145 interest accruing at seven and one-half percent from the
146 calculation month through the purchase month, compounded
147 monthly.

148 (C) "Armed forces of the United States" means the Army,
149 Navy, Air Force, Marine Corps, and Coast Guard, the reserve
150 components thereof, and the National Guard of the United
151 States or the National Guard of a state or territory when
152 members of the same are on full-time active duty pursuant to
153 Title 10 or Title 32 of the United States Code.

154 (D) "Calculation month" means the month immediately
155 following the month in which the member completes a
156 complete fiscal year of contributory service with a
157 participating public employer required by subdivision (1),
158 (2), (3) or (4) of this subsection, as applicable.

159 (E) "Purchase accrued benefit" means two percent times
160 the purchase military service times the purchase average
161 monthly salary.

162 (F) "Purchase age" means the age of the employee in
163 years and completed months as of the first day of the
164 calculation month.

165 (G) "Purchase annuity rate" means the actuarial lump
166 sum annuity factor calculated as of the calculation month
167 based on the following actuarial assumptions: Interest rate of
168 seven and one-half percent; mortality of the 1971 group
169 annuity mortality table, fifty percent blended male and female
170 rates, applied on a unisex basis to all members; if purchase
171 age is under age sixty-two, a deferred annuity factor with
172 payments commencing at age sixty-two; and if purchase age
173 is sixty-two or over, an immediate annuity factor with
174 payments starting at the purchase age.

175 (H) "Purchase average monthly salary" means the
176 average monthly salary of the member during the number of
177 months of the member's contract during the fiscal year of
178 contributory service required by subdivisions (1), (2), (3) and
179 (4) of this subsection, as applicable. For any member who
180 first became an employee of a participating public employer
181 before July 1, 2015, the purchase average monthly salary
182 means the average monthly salary of the member during the
183 number of months of the member's contract during his or her
184 complete fiscal year of contributory service on or after July
185 1, 2015.

186 (I) "Purchase military service" means the amount of
187 military service being purchased by the employee in months
188 up to the sixty-month maximum, calculated in accordance
189 with subdivision (7) of this subsection.

190 (J) "Purchase month" means the month in which the
191 employee deposits the actuarial reserve lump sum purchase
192 amount into the plan trust fund in full payment of the service
193 credit being purchased or makes the final payment of the

194 actuarial reserve purchase amount into the plan trust fund in
195 full payment of the service credit being purchased.

196 (6) A member may purchase military service credit for a
197 period of active military duty pursuant to this subsection only
198 if the member received an honorable discharge for the period.
199 Anything other than an honorable discharge, including, but
200 not limited to, a general or under honorable conditions
201 discharge, an entry-level separation discharge, an other than
202 honorable conditions discharge or a dishonorable discharge,
203 shall disqualify the member from receiving military service
204 credit for the period of service. The board shall require a
205 member requesting military service credit to provide official
206 documentation establishing that the requirements set forth in
207 this subsection have been met.

208 (7) To calculate the amount of military service credit a
209 member may purchase, the board shall add the total number
210 of days in each period of a member's active military duty
211 eligible to be purchased, divide the total by thirty, and round
212 up or down to the nearest integer (fractions of 0.5 shall be
213 rounded up), in order to yield the total number of months of
214 military service credit a member may purchase, subject to the
215 sixty-month maximum. A member may purchase all or part
216 of the maximum amount of military service credit he or she
217 is eligible for in one-month increments.

218 (8) To receive credit, a member must submit a request to
219 purchase military service credit to the board, on such form or
220 in such other manner as shall be required by the board, within
221 the complete fiscal year period required by subdivision (1),
222 (2), (3) or (4) of this subsection, as applicable. The board
223 shall then calculate the actuarial reserve lump sum purchase
224 amount, which amount must be paid by the member within
225 the 48-month period required by said subdivisions, as
226 applicable. A member purchasing military service credit

227 pursuant to this subsection must do so in a single, lump sum
228 payment: *Provided*, That the board may accept partial,
229 installment or other similar payments if the employee
230 executes a contract with the board specifying the amount of
231 military service to be purchased and the payments required:
232 *Provided, however*, That any failure to pay the contract
233 amount in accordance with this section shall be treated as an
234 overpayment or excess contribution subject to section forty-
235 four of this article and no military service shall be credited.

236 (9) The board shall require a member requesting military
237 service credit to provide official documentation establishing
238 that the requirements set forth in this subsection have been met.

239 (10) Military service credit purchased pursuant to this
240 subsection shall not be considered contributing service credit
241 or contributory service for purposes of this article.

242 (11) If a member who has purchased military service
243 credit pursuant to this subsection is eligible for and requests
244 a withdrawal of accumulated contributions pursuant to the
245 provisions of this article, he or she shall also receive a refund
246 of the actuarial reserve purchase amount he or she paid to the
247 retirement system to purchase military service credit, together
248 with regular interest on such amount.

249 (c) No period of military service shall be used to obtain
250 credit in more than one retirement system administered by the
251 board and once used in any system, a period of military
252 service may not be used again in any other system.

253 (d) Notwithstanding the preceding provisions of this
254 section, contributions, benefits and service credit with respect
255 to qualified military service shall be provided in accordance
256 with Section 414(u) of the Internal Revenue Code and the

257 federal Uniformed Services Employment and Reemployment
258 Rights Act (USERRA), and regulations promulgated
259 thereunder, as the same may be amended from time to time.
260 For purposes of this section, "qualified military service" has
261 the same meaning as in Section 414(u) of the Internal
262 Revenue Code.

263 (e) In any case of doubt as to the period of service to be
264 credited a member under the provisions of this section, the
265 board has final power to determine the period. The board is
266 authorized to determine all questions and make all decisions
267 relating to this section and, pursuant to the authority granted
268 to the board in section one, article ten-d of this chapter, may
269 propose rules to administer this section for legislative
270 approval in accordance with the provisions of article three,
271 chapter twenty-nine-a of this code.

§18-7A-23. Withdrawal and death benefits.

1 (a) Benefits upon withdrawal from service prior to
2 retirement under the provisions of this article shall be as
3 follows:

4 (1) A contributor who withdraws from service for any
5 cause other than death, disability or retirement shall, upon
6 application, be paid his or her accumulated contributions up
7 to the end of the fiscal year preceding the year in which
8 application is made, after offset of any outstanding loan
9 balance, plus accrued loan interest, pursuant to section thirty-
10 four of this article, but in no event shall interest be paid
11 beyond the end of five years following the year in which the
12 last contribution was made: *Provided*, That the contributor,
13 at the time of application, is then no longer under contract,
14 verbal or otherwise, to serve as a teacher; or

15 (2) Except as provided in section twenty-five-b of this
16 article, if the inactive member has completed twenty years of
17 total service, he or she may elect to receive at age sixty an
18 annuity which shall be computed as provided in this article:
19 *Provided*, That if the inactive member has completed at least
20 five, but fewer than twenty, years of total service in this state,
21 he or she may elect to receive at age sixty-two an annuity
22 which shall be computed as provided in this article. The
23 inactive member must notify the retirement board in writing
24 concerning the election. If the inactive member has
25 completed fewer than five years of service in this state, he or
26 she shall be subject to the provisions as outlined in
27 subdivision (1) of this subsection.

28 (b) Benefits upon the death of a contributor prior to
29 retirement under the provisions of this article shall be paid as
30 follows:

31 (1) If the contributor was at least fifty years old and if his
32 or her total service as a teacher or nonteaching member was
33 at least twenty-five years at the time of his or her death, then
34 the surviving spouse of the deceased, provided the spouse is
35 designated as the sole primary refund beneficiary, is eligible
36 for an annuity computed as though the deceased were
37 actually a retirant at the time of death and had selected a
38 survivorship option which pays the spouse the same monthly
39 amount which would have been received by the deceased; or

40 (2) If the facts do not permit payment under subdivision
41 (1) of this subsection, then the following sum shall be paid to
42 the refund beneficiary of the contributor: (A) The
43 contributor's accumulated contributions up to the plan year
44 of his or her death plus an amount equal to his or her member
45 contributions: *Provided*, That the latter sum shall emanate
46 from the Employer's Accumulation Fund; and (B) the refund
47 beneficiary of any individual who became a member of the

48 retirement system as a result of the voluntary transfer
49 contemplated in article seven-d of this chapter shall also be
50 paid the member contributions plus the vested portion of
51 employer contributions made on his or her behalf to the
52 Teachers' Defined Contribution Retirement System, plus any
53 earnings thereon, as of June 30, 2008, as stated by the
54 retirement board.

§18-7A-25. Eligibility for retirement allowance.

1 (a) Except for a person who first becomes a member of
2 the retirement system on or after July 1, 2015, any actively
3 contributing member who has attained the age of sixty years
4 or any member who has thirty-five years of total service as a
5 teacher or nonteaching member in West Virginia, regardless
6 of age, is eligible for an annuity. No new entrant nor present
7 member is eligible for an annuity, however, if either has less
8 than five years of service to his or her credit: *Provided*, That
9 on and after July 1, 2013, any person who becomes a new
10 member of this retirement system shall, in qualifying for
11 retirement under this section, have five or more years of
12 contributory service, all of which shall be actual, contributory
13 ones.

14 (b) Except for a person who first becomes a member of
15 the retirement system on or after July 1, 2015, any member
16 who has attained the age of fifty-five years and who has
17 served thirty years as a teacher or nonteaching member in
18 West Virginia is eligible for an annuity.

19 (c) Except for a person who first becomes a member of
20 the retirement system on or after July 1, 2015, any member
21 who has served at least thirty but less than thirty-five years as
22 a teacher or nonteaching member in West Virginia and is less
23 than fifty-five years of age is eligible for an annuity, but the
24 annuity shall be the reduced actuarial equivalent of the

25 annuity the member would have received if the member were
26 age fifty-five at the time the annuity was applied for.

27 (d) The request for any annuity shall be made by the
28 member in writing to the retirement board, but in case of
29 retirement for disability, the written request may be made by
30 either the member or the employer.

31 (e) A member is eligible for annuity for disability if he or
32 she satisfies the conditions in either subdivision (1) or (2) of
33 this subsection and meets the conditions of subdivision (3) of
34 this subsection as follows:

35 (1) His or her service as a teacher or nonteaching member
36 in West Virginia must total at least ten years and service as a
37 teacher or nonteaching member must have been terminated
38 because of disability, which disability must have caused
39 absence from service for at least six months before his or her
40 application for disability annuity is approved.

41 (2) His or her service as a teacher or nonteaching member
42 in West Virginia must total at least five years and service as
43 a teacher or nonteaching member must have been terminated
44 because of disability, which disability must have caused
45 absence from service for at least six months before his or her
46 application for disability annuity is approved and the
47 disability is a direct and total result of an act of student
48 violence directed toward the member.

49 (3) An examination by a physician or physicians selected
50 by the retirement board must show that the member is at the
51 time mentally or physically incapacitated for service as a
52 teacher or nonteaching member, that for that service the
53 disability is total and likely to be permanent and that he or
54 she should be retired in consequence of the disability.

55 (f) Continuance of the disability of the retirant shall be
56 established by medical examination, as prescribed in
57 subdivision (3), subsection (e) of this section, annually for
58 five years after retirement, and thereafter at such times
59 required by the retirement board. Effective July 1, 1998, a
60 member who has retired because of a disability may select an
61 option of payment under the provisions of section
62 twenty-eight of this article: *Provided*, That any option
63 selected under the provisions of section twenty-eight of this
64 article shall be in all respects the actuarial equivalent of the
65 straight life annuity benefit the disability retirant receives or
66 would receive if the options under said section were not
67 available and that no beneficiary or beneficiaries of the
68 disability retirant may receive a greater benefit, nor receive
69 any benefit for a greater length of time, than the beneficiary
70 or beneficiaries would have received had the disability
71 retirant not made any election of the options available under
72 said section. In determining the actuarial equivalence, the
73 retirement board shall take into account the life expectancies
74 of the member and the beneficiary: *Provided, however*, That
75 the life expectancies may at the discretion of the retirement
76 board be established by an underwriting medical director of
77 a competent insurance company offering annuities. Payment
78 of the disability annuity provided in this article shall cease
79 immediately if the retirement board finds that the disability of
80 the retirant no longer exists, or if the retirant refuses to submit
81 to medical examination as required by this section.

§18-7A-25b. Withdrawal and eligibility for retirement allowance for a person who first becomes a member of the retirement system on or after July 1, 2015.

1 (a) A person who first becomes a member of the
2 retirement system on or after July 1, 2015, who has ten or
3 more years of contributing service, and attains or has attained
4 the age of sixty-two years, may retire upon his or her written

5 application filed with the board of trustees setting forth the
6 date on which the member desires to be retired. Upon
7 retirement, the member shall receive an annuity provided in
8 section twenty-six of this article.

9 (b) Any person who first becomes a member of the
10 retirement system on or after July 1, 2015, who has ten or
11 more years of contributing service and who leaves the
12 employ of a participating public employer prior to attaining
13 age sixty-two years for any reason except his or her disability
14 or death, is entitled to an annuity computed according to
15 section twenty-two of this article: *Provided*, That he or she
16 does not withdraw his or her accumulated contributions from
17 the members' deposit fund. His or her annuity shall begin the
18 first day of the calendar month next following the month in
19 which his or her application for same is filed with the board
20 of trustees on or after his or her attaining age sixty-four years.

21 (c) Any member who qualifies for deferred retirement
22 benefits in accordance with subsections (a) and (b) of this
23 section and has twenty or more years of contributing service
24 in force is entitled to an annuity computed as in subsection
25 (a) of this section: *Provided*, That he or she does not
26 withdraw his or her accumulated contributions from the
27 members' deposit fund: *Provided, however*, That his or her
28 annuity shall begin the first day of the calendar month next
29 following the month in which his or her application for same
30 is filed with the board of trustees on or after his or her
31 attaining age sixty-three.

32 (d) Notwithstanding any of the other provisions of this
33 section or of this article, except sections twenty-eight-a and
34 twenty-eight-b of this article, and pursuant to rules
35 promulgated by the board, any member who first becomes a
36 member of the retirement system on or after July 1, 2015, and
37 has ten or more years of contributing service in force, is

38 currently employed by a participating public employer and
39 who elects to take early retirement, which for the purposes of
40 this subsection means retirement following attainment of age
41 sixty but prior to attaining age sixty-two, is entitled to the full
42 computation of annuity according to section twenty-two of
43 this article but with the reduced actuarial equivalent of the
44 annuity the member would have received if his or her benefit
45 had commenced at age sixty-two when he or she would have
46 been entitled to full computation of benefit without any
47 reduction: *Provided*, That his or her annuity shall begin the
48 first day of the calendar month next following the month in
49 which his or her application for same is filed with the board
50 of trustees on or after his or her attaining age sixty.

51 (e) Any member who first becomes a member of the
52 retirement system on or after July 1, 2015, and has twenty or
53 more years of contributing service in force, is currently
54 employed by a participating public employer and who elects
55 to take early retirement, which for the purposes of this
56 subsection means retirement following attainment of age
57 fifty-seven but prior to attaining age sixty-two, is entitled to
58 the full computation of annuity according to section
59 twenty-two of this article but with the reduced actuarial
60 equivalent of the annuity the member would have received if
61 his or her benefit had commenced at age sixty-two when he
62 or she would have been entitled to full computation of benefit
63 without any reduction: *Provided*, That his or her annuity
64 shall begin the first day of the calendar month next following
65 the month in which his or her application for same is filed
66 with the board of trustees on or after his or her attaining age
67 fifty-seven.

68 (f) Any member who first becomes a member of the
69 retirement system on or after July 1, 2015, and has thirty or
70 more years of contributing service in force, is currently
71 employed by a participating public employer and who elects

72 to take early retirement, which for the purposes of this
73 subsection means retirement following attainment of age
74 fifty-five but prior to attaining age sixty-two, is entitled to the
75 full computation of annuity according to section twenty-two
76 of this article but with the reduced actuarial equivalent of the
77 annuity the member would have received if his or her benefit
78 had commenced at age sixty-two when he or she would have
79 been entitled to full computation of benefit without any
80 reduction: *Provided*, That his or her annuity shall begin the
81 first day of the calendar month next following the month in
82 which his or her application for same is filed with the board
83 of trustees on or after his or her attaining age fifty-five.

**ARTICLE 7D. VOLUNTARY TRANSFER FROM TEACHERS'
DEFINED CONTRIBUTION RETIREMENT
SYSTEM TO STATE TEACHERS
RETIREMENT SYSTEM.**

**§18-7D-6. Service credit in State Teachers Retirement System following
transfer; conversion of assets; adjustments.**

1 (a) Any member who has affirmatively elected to transfer
2 to the State Teachers Retirement System within the period
3 provided in section seven of this article whose assets have
4 been transferred from the Teachers' Defined Contribution
5 Retirement System to the State Teachers Retirement System
6 pursuant to the provisions of this article and who has not
7 made any withdrawals or cash-outs from his or her assets is,
8 depending upon the percentage of actively contributing
9 members affirmatively electing to transfer, entitled to service
10 credit in the State Teachers Retirement System in accordance
11 with the provisions of subsection (c) of this section.

12 (b) Any member who has made withdrawals or cash-outs
13 will receive service credit based upon the amounts
14 transferred. The board shall make the appropriate adjustment
15 to the service credit the member will receive.

16 (c) More than seventy-five percent of actively
17 contributing members of the Teachers' Defined Contribution
18 Retirement System affirmatively elected to transfer to the
19 State Teachers Retirement System within the period provided
20 in section seven of this article. Therefore, any member of the
21 Teachers' Defined Contribution Retirement System who
22 decides to transfer to the State Teachers Retirement System
23 calculates his or her service credit in the State Teachers
24 Retirement System as follows:

25 (1) For any member affirmatively electing to transfer, the
26 member's State Teachers Retirement System credit shall be
27 seventy-five percent of the member's Teachers' Defined
28 Contribution Retirement System service credit, less any
29 service previously withdrawn by the member or due to a
30 qualified domestic relations order and not repaid;

31 (2) To receive full credit in the State Teachers Retirement
32 System for service in the Teachers' Defined Contribution
33 Retirement System for which assets are transferred, members
34 who affirmatively elected to transfer and who provided to the
35 board a signed verification of cost for service credit purchase
36 form by the effective date of the amendments to this section
37 enacted in the 2009 regular legislative session shall pay into
38 the State Teachers Retirement System a one and one-half
39 percent contribution by no later than July 1, 2015, or no later
40 than ninety days after the postmarked date on a final and
41 definitive contribution calculation from the board, whichever
42 is later. This contribution shall be calculated as one and one-
43 half percent of the member's estimated total earnings for
44 which assets are transferred, plus interest of four percent per
45 annum accumulated from the date of the member's initial
46 participation in the Teachers' Defined Contribution
47 Retirement System through June 30, 2009, and interest of
48 seven and one-half percent per annum accumulated from July
49 1, 2009, through July 1, 2015: *Provided*, That any member

50 who transferred and provided to the board a signed
51 verification of cost for service credit purchase form by June
52 30, 2009, but was unable to complete the purchase of the one
53 and one-half percent contribution, or any member who did
54 not request a verification of cost letter but attempted to
55 purchase the one and one-half percent contribution and was
56 denied in writing by the board on or before December 31,
57 2009, may request the board on or before April 15, 2015, to
58 recalculate the contribution for 2015. To receive full credit,
59 the member shall pay into the State Teachers Retirement
60 System the recalculated purchase amount by July 1, 2015, or
61 no later than sixty days after the postmarked date on a
62 contribution recalculation from the board, whichever is later.
63 The recalculated contribution shall include the interest loss at
64 the actuarial rate of seven and one-half percent. The board's
65 executive director may correct clerical errors.

66 (A) For a member contributing to the Teachers' Defined
67 Contribution Retirement System at any time during the 2008
68 fiscal year and commencing membership in the State
69 Teachers Retirement System on July 1, 2008, or August 1,
70 2008, as the case may be:

71 (i) The estimated total earnings shall be calculated based
72 on the member's salary and the member's age nearest
73 birthday on June 30, 2008;

74 (ii) This calculation shall apply both an annual backward
75 salary scale from that date for prior years' salaries and a
76 forward salary scale for the salary for the 2008 fiscal year.

77 (B) The calculations in paragraph (A) of this subdivision
78 are based upon the salary scale assumption applied in the
79 West Virginia Teachers Retirement System actuarial
80 valuation as of July 1, 2007, prepared for the Consolidated
81 Public Retirement Board. This salary scale shall be applied
82 regardless of breaks in service.

83 (d) All service previously transferred from the State
84 Teachers Retirement System to the Teachers' Defined
85 Contribution Retirement System is considered Teachers'
86 Defined Contribution Retirement System service for the
87 purposes of this article.

88 (e) Notwithstanding any provision of this code to the
89 contrary, the retirement of a member who becomes eligible to
90 retire after the member's assets are transferred to the State
91 Teachers Retirement System pursuant to the provisions of
92 this article may not commence before September 1, 2008:
93 *Provided*, That the Consolidated Public Retirement Board
94 may not retire any member who is eligible to retire during the
95 calendar year 2008 unless the member has provided a written
96 notice to his or her county board of education by July 1,
97 2008, of his or her intent to retire.

98 (f) The provisions of section twenty-eight-e, article
99 seven-a of this chapter do not apply to the amendments to this
100 section enacted during the 2009 regular legislative session or
101 the 2015 regular legislative session.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

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

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

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

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

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

[Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2015

Time 3:25 pm