

SB 529 (veto)

FILED

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WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 529

(SENATORS GAUNCH AND CARMICHAEL, *ORIGINAL SPONSORS*)

[PASSED MARCH 14, 2015; IN EFFECT FROM PASSAGE.]

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SECRETARY OF STATE

FOR

Senate Bill No. 529

(SENATORS GAUNCH AND CARMICHAEL, *ORIGINAL SPONSORS*)

[Passed March 14, 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 of said code, 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; allowing certain persons to buy service credit and interest into the West Virginia Public Employees Retirement System for service 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; and that said code be amended by adding thereto two new sections, designated §18-7A-17a and §18-7a-25b, 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 retiree,
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
55 state, to the extent credited him or her as provided by this
56 article;

57 (10) "Credited service" means the sum of a member's
58 prior service credit, military service credit, workers'
59 compensation service credit and contributing service credit
60 standing to his or her credit as provided in this article;

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

91 (12) "Employer error" means an omission,
92 misrepresentation or violation of relevant provisions of the
93 West Virginia Code or of the West Virginia Code of State
94 Regulations or the relevant provisions of both the West
95 Virginia Code and of the West Virginia Code of State

96 Regulations by the participating public employer that has
97 resulted in an underpayment or overpayment of contributions
98 required. A deliberate act contrary to the provisions of this
99 section by a participating public employer does not constitute
100 employer error.

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

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

124 (B) If the member has less than five years of credited
125 service, the average of the annual rate of compensation
126 received by the member during his or her total years of
127 credited service; and in determining the annual compensation,
128 under either paragraph (A) or (B) of this subdivision, of a

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

164 (14) "Internal Revenue Code" means the Internal
165 Revenue Code of 1986, as amended, codified at Title 26 of
166 the United States Code;

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

178 (16) "Member" means any person who has accumulated
179 contributions standing to his or her credit in the members'
180 deposit fund.

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

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

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

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

215 (20) "Prior service" means service rendered prior to July
216 1, 1961, to the extent credited a member as provided in this
217 article;

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

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

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

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

233 (25) "Retirement system" or "system" means the West
234 Virginia Public Employees Retirement System created and
235 established by this article;

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

247 (27) "Service" means personal service rendered to a
248 participating public employer by an employee of a
249 participating public employer; and

250 (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 (c) (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,
211 the seven consecutive calendar years requirement and the
212 thirteen consecutive calendar years requirement and the

213 service credit requirements set forth in this section shall be
214 applied retroactively to all periods of legislative
215 employment prior to the passage of this section, including
216 any periods of legislative employment occurring before the
217 seven 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 (4) of this subsection:

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, 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
253 to purchase military service credit to the board, on such form
254 or in such other manner as shall be required by the board,

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

270 (11) The board shall require a member requesting military
271 service credit to provide official documentation establishing
272 that the requirements set forth in this subsection have been 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, article ten
301 of this chapter, the provisions of this section are not subject
302 to liberal construction. The board is authorized to determine
303 all questions and make all decisions relating to this section
304 and, pursuant to the authority granted to the board in section
305 one, article ten-d of this chapter, may propose rules to
306 administer this section for legislative approval in accordance
307 with the provisions of article three, chapter twenty-nine-a of
308 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 section
19 upon attaining the age of sixty-two with ten or more years of
20 service, all of which must be actual, contributing 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 subsection
18 and has twenty or more years of contributing service in force
19 is 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 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 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 States,
13 or a governmental subdivision of that state or territory, the
14 retirement board shall grant credit to the member: *Provided*,
15 That the member shall pay to the system twelve percent of that
16 member's gross salary earned during the first full year of
17 current employment whether a member of the Teachers
18 Retirement System or the Teachers' Defined Contribution
19 Retirement System, times the number of years for which credit
20 is granted, plus interest at a rate to be determined by the

21 retirement board. The interest shall be deposited in the reserve
22 fund and service credit granted at the time of retirement shall
23 not exceed the lesser of ten years or fifty percent of the
24 member's total service as a teacher in West Virginia. Any
25 purchase of out-of-state service, as provided in this article, shall
26 not be used to establish eligibility for a retirement allowance
27 and the retirement board shall grant credit for the purchased
28 service as additional service only: *Provided, however,* That a
29 purchase of out-of-state service is prohibited if the service is
30 used to obtain a retirement benefit from another retirement
31 system: *Provided further,* That salaries paid to members for
32 service prior to entrance into the retirement system shall not be
33 used to compute the average final salary of the member under
34 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 would
164 have been for those periods of time he or she was serving in
165 the Legislature. The periods of time upon which the member
166 paid his or her contribution shall then be included for
167 purposes of determining his or her final average salary as
168 well as for determining years of service: *And provided*
169 *further*, That a member using the provisions of this
170 subsection is not required to pay interest on any contributions
171 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 any
180 time prior to the member's retirement: *Provided*, That the
181 member shall add to the amounts transferred or repaid under
182 this paragraph an amount which is sufficient to equal the
183 contributions he or she would have made had the member
184 been under the Teachers Retirement System during the period
185 of his or her membership in the State Police Death, Disability
186 and Retirement System plus interest at a rate to be determined
187 by the retirement board compounded annually from the date
188 of withdrawal to the date of payment. The interest paid shall
189 be deposited in the reserve fund.

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
56 and while he or she continues to be in the employ of a
57 participating public employer and contributing to the
58 retirement system, or within forty-eight months of July 1,
59 2015, whichever is later: *Provided*, That any employee who
60 ceases employment with a participating public employer
61 before completing the required actuarial reserve purchase
62 amount in full shall not be eligible to purchase the military
63 service.

64 (2) Notwithstanding paragraph (A), subdivision (1) of
65 this subsection, a member who first becomes an employee of
66 a participating public employer on or after July 1, 2015, but

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

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

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

101 employee of a participating public employer and completes
102 at least a complete fiscal year of contributory service;

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

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

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

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

138 (5) For purposes of this subsection, the following
139 definitions shall apply:

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

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

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

156 (D) "Calculation month" means the month immediately
157 following the month in which the member completes a
158 complete fiscal year of contributory service with a
159 participating public employer required by subdivisions (1),
160 (2), (3) or (4) of this subsection, as applicable.

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

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

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

177 (H) "Purchase average monthly salary" means the
178 average monthly salary of the member during the number of
179 months of the member's contract during the fiscal year of
180 contributory service required by subdivisions (1), (2), (3) or
181 (4) of this subsection, as applicable. For any member who
182 first became an employee of a participating public employer
183 before July 1, 2015, the purchase average monthly salary
184 means the average monthly salary of the member during the
185 number of months of the member's contract during his or her
186 complete fiscal year of contributory service on or after July
187 1, 2015.

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

192 (J) "Purchase month" means the month in which the
193 employee deposits the actuarial reserve lump sum purchase
194 amount into the plan trust fund in full payment of the service

195 credit being purchased or makes the final payment of the
196 actuarial reserve purchase amount into the plan trust fund in
197 full payment of the service credit being purchased.

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

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

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

226 amount, which amount must be paid by the member within
227 the 48-month period required by said subdivisions, as
228 applicable. A member purchasing military service credit
229 pursuant to this subsection must do so in a single, lump sum
230 payment: *Provided*, That the board may accept partial,
231 installment or other similar payments if the employee
232 executes a contract with the board specifying the amount of
233 military service to be purchased and the payments required:
234 *Provided, however*, that any failure to pay the contract
235 amount in accordance with this section shall be treated as an
236 overpayment or excess contribution subject to section forty-
237 four of this article and no military service shall be credited.

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

242 (10) Military service credit purchased pursuant to this
243 subsection shall not be considered contributing service credit
244 or contributory service for purposes of this article.

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

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

256 (d) Notwithstanding the preceding provisions of this
257 section, contributions, benefits and service credit with respect
258 to qualified military service shall be provided in accordance
259 with section 414(U) of the Internal Revenue Code and the
260 federal Uniformed Services Employment and Reemployment
261 Rights Act (USERRA), and regulations promulgated
262 thereunder, as the same may be amended from time to time.
263 For purposes of this section, "qualified military service" has
264 the same meaning as in section 414(u) of the Internal
265 Revenue Code.

266 (e) In any case of doubt as to the period of service to be
267 credited a member under the provisions of this section, the
268 board has final power to determine the period. The board is
269 authorized to determine all questions and make all decisions
270 relating to this section and, pursuant to the authority granted
271 to the board in section one, article ten-d of this chapter, may
272 propose rules to administer this section for legislative
273 approval in accordance with the provisions of article three,
274 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 five
58 years after retirement, and thereafter at such times required by
59 the retirement board. Effective July 1, 1998, a member who has
60 retired because of a disability may select an option of payment
61 under the provisions of section twenty-eight of this article:
62 *Provided*, That any option selected under the provisions of
63 section twenty-eight of this article shall be in all respects the
64 actuarial equivalent of the straight life annuity benefit the
65 disability retirant receives or would receive if the options under
66 said section were not available and that no beneficiary or
67 beneficiaries of the disability retirant may receive a greater
68 benefit, nor receive any benefit for a greater length of time, than
69 the beneficiary or beneficiaries would have received had the
70 disability retirant not made any election of the options available
71 under said section. In determining the actuarial equivalence, the
72 retirement board shall take into account the life expectancies of
73 the member and the beneficiary: *Provided, however*, That the
74 life expectancies may at the discretion of the retirement board
75 be established by an underwriting medical director of a
76 competent insurance company offering annuities. Payment of
77 the disability annuity provided in this article shall cease
78 immediately if the retirement board finds that the disability of
79 the retirant no longer exists, or if the retirant refuses to submit
80 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 the 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 subsection and has twenty or more years of contributing
24 service in force is entitled to an annuity computed as in
25 subsection (a) of this section: *Provided*, That he or she does
26 not 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 age attaining age sixty-two, is entitled to the
42 full computation of annuity according to section twenty-two
43 of 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.

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

Mark R. Spaynes
.....
Chairman Senate Committee

John B. McL
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Clark Evans
.....
Clerk of the Senate

Steph J. Harris
.....
Clerk of the House of Delegates

William Blaine
.....
President of the Senate

Cheryl Miller
.....
Speaker of the House of Delegates

The within *is approved* this the *17th*
Day of *Nov*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2015

Time 3:26 pm