Enrolled

Committee Substitute

for

Senate Bill 595

By Senators Gaunch, Blair, Boso, Carmichael, Kirkendoll, Maynard, Prezioso, Stollings, Walters, Plymale and Williams, original sponsors

[Passed March 10, 2016; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 595

BY SENATORS GAUNCH, BLAIR, BOSO, CARMICHAEL,

KIRKENDOLL, MAYNARD, PREZIOSO, STOLLINGS,

WALTERS, PLYMALE AND WILLIAMS, original sponsors

[Passed March 10, 2016; in effect 90 days from passage]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-15c; and to amend said code by adding thereto a new section, designated §18-7A-17b, all relating to retirement credit for members of the West Virginia National Guard; and establishing procedure for purchase of military service credit by members of certain retirement systems with current or prior service in the West Virginia National Guard.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5-10-15c; and that said code be amended by adding thereto a new section, designated §18-7A-17b, 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.

§5-10-15c. Military service credit for members of the West Virginia National Guard.

(a)(1) The Legislature recognizes the men and women who have dedicated themselves to the defense and service of this state through their service in the West Virginia National Guard. It is the intent of this section to confer military service credit upon members of the Public Employees Retirement System for any time served in the West Virginia National Guard when they meet the requirements of this section.

(2) In addition to any benefit provided by federal law, any member of the retirement system who currently or previously has served in the West Virginia National Guard may purchase credited service for the time served in the West Virginia National Guard, not to exceed sixty months if the following conditions are met:
(A) The employee substantiates by appropriate documentation or evidence his or her
service in the West Virginia National Guard;

(B) The employee has completed at least twelve consecutive months of contributory
service to the retirement system on or after January 2015; and

(C) The employee pays to the retirement system the actuarial reserve purchase amount
within forty-eight months after January 1, 2015, if he or she was employed with a participating
public employer during all twelve months of the calendar year 2015 or the first date on which
employer and employee contributions are received by the retirement system for the employee
after January 2015 if he or she was not employed with a participating public employer during all
twelve months of calendar year 2015 and while he or she continues to be in the employ of a
participating public employer and contributing to the retirement system: Provided, That any
employee who ceases employment with a participating public employer before completing the
required actuarial reserve purchase amount in full shall not be eligible to purchase the military
service.

(3) Any member of the retirement system who serves, or has served, in the West Virginia
National Guard may purchase one month of military service credit for every fifteen points earned
toward a reserve component retirement during a qualifying year as computed in subdivision (7)
of this subsection. For purposes of this section, points will be verified using the National Guard
Current Annual Statement, Point Credit Summary or other equivalent document, along with any
documentation of any periods of active service of the State of West Virginia as verified by the
Adjutant General’s office. All documentation will be submitted to the retirement board by the
employee.

(4) In no event, however, may a member purchase or receive a total of more than sixty
months of military service credit under this section; section fifteen, article ten, chapter five of this
code; or any other retirement system administered by the board.
(5) In any case of doubt as to the period of service to be credited a member under the provisions of this section, the board shall have final power to determine the period.

(6) To receive credit, an employee must submit a request to purchase military service credit to the board, on such form or in such other manner as shall be required by the board, within the twelve consecutive month period required by this subsection or by December 31, 2016, whichever occurs later. The board shall then calculate the actuarial reserve lump sum purchase amount, which amount must be paid by the employee within the forty-eight-month period required by this subsection, as applicable. An employee purchasing military service credit pursuant to this subsection must do so in a single, lump sum payment: Provided, That the board may accept partial, installment or other similar payments if the employee executes a contract with the board specifying the amount of military service to be purchased and the payments required: Provided, however, That any failure to pay the contract amount in accordance with this section shall be treated as an overpayment or excess contribution subject to section forty-four of this article and no military service shall be credited.

(7) To calculate the amount of military service credit an employee may purchase, the board shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and round up or down to the nearest integer (fractions of 0.5 and greater shall be rounded up), in order to yield the total number of months of military service credit an employee may purchase, subject to the sixty-month maximum. An employee may purchase in one-month increments all or part of the maximum amount of military service credit for which he or she is eligible.

(8) If a member who has purchased military service credit pursuant to this subsection is eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or she paid to the retirement system to purchase military service credit, together with regular interest on the amount.
(9) Military service credit purchased pursuant to this subsection may not be considered contributing service credit or contributory service for purposes of this article.

(b)(1) Employees of participating public employers who continue concurrently in active service of the State of West Virginia with the West Virginia National Guard after the eligible period to purchase military service credit as set forth in subsection (a) or employees who join the West Virginia National Guard after participation in the retirement system has commenced may purchase military service credit earned after the service computed under subsection (a) up to the sixty-month maximum in every even calendar year following, if the following conditions are met:

(A) The employee substantiates by appropriate documentation or evidence his or her service in the West Virginia National Guard;

(B) The employee has completed at least twelve consecutive months of contributory service to the retirement system in the prior odd year; and

(C) The employee pays to the retirement system the actuarial reserve purchase amount within three months from the date of the cost letter provided by the board and while he or she continues to be in the employ of a participating public employer and contributing to the retirement system: Provided, That any employee who ceases employment with a participating public employer before completing the required actuarial reserve purchase amount in full shall not be eligible to purchase the military service credit.

(2) Any member of the retirement system who serves or has served in the West Virginia National Guard may purchase one month of military service credit for every fifteen points earned toward a reserve component retirement during a qualifying year as computed in subdivision (6) of this subsection. For purposes of this section, points will be verified using the National Guard Current Annual Statement, Point Credit or other equivalent document, along with any documentation of any periods of active service of the State of West Virginia as verified by the Adjutant General's office. All documentation will be submitted to the retirement board by the employee.
(3) In no event, however, may a member purchase or receive a total of more than sixty
months of military service credit under this section; section fifteen, article ten, chapter five of this
code, or any other retirement system administered by the board.

(4) In any case of doubt as to the period of service to be credited a member under the
provisions of this section, the board shall have final power to determine the period.

(5) To receive credit, an employee must submit a request to purchase military service
credit to the board, on such form or in such other manner as shall be required by the board, within
the first five months of each even calendar year following the years computed under subsection
(a) of this section. The board shall then calculate the actuarial reserve lump sum purchase
amount, which amount must be paid by the employee within three months from the date of the
cost letter provided by the board. An employee purchasing military service credit pursuant to this
subsection must do so in a single, lump sum payment.

(6) To calculate the amount of military service credit an employee may purchase, the board
shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and
round up or down to the nearest integer (fractions of 0.5 and greater shall be rounded up), in order
to yield the total number of months of military service credit an employee may purchase, subject
to the sixty-month maximum. An employee may purchase in one month increments all or part of
the maximum amount of military service credit for which he or she is eligible.

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

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

(c) For purposes of this section:
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(1) “Active service of the State of West Virginia” means full-time state active duty in the
West Virginia Army National Guard or the West Virginia Air National Guard when such duty is
performed upon orders of the Adjutant General of the West Virginia National Guard or the
Governor of West Virginia and which is funded entirely by the state.

(2) “Actuarial reserve purchase amount” means the purchase annuity rate multiplied by
the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing
at seven and one-half percent from the calculation month through the purchase month,
compounded monthly: Provided, That if the employee elects to pay the full purchase amount on
an installment or partial payment basis as permitted under subsection (a) of this section, the
actuarial reserve purchase amount will include the lump sum payment plus additional interest
accruing at seven and one-half percent until the purchase amount is paid in full.

(3) “Calculation month” means the month immediately following the month in which the
employee completes the first twelve consecutive months of contributory service with a
participating public employer on or after January 2015 for computations under subsection (a) of
this section, or the month immediately following the month in which the employee completes
twelve consecutive months of contributory service with a participating public employer in the
preceding odd calendar year for computations under subsection (b) of this section.

(4) “Purchase accrued benefit” means two percent times the purchase military service
times the purchase average monthly salary.

(5) “Purchase age” means the age of the employee in years and completed months as of
the first day of the calculation month.

(6) “Purchase annuity rate” means the actuarial lump sum annuity factor calculated as of
the calculation month based on the following actuarial assumptions:

(A) Interest rate of seven and one-half percent;

(B) Mortality of the 1971 group annuity mortality table, fifty percent blended male and
female rates, applied on a unisex basis to all members; and
(C) If purchase age is under age sixty-two, a deferred annuity factor with payments commencing at age sixty-two; or

(D) If purchase age is sixty-two or over, an immediate annuity factor with payments starting at the purchase age.

(7) “Purchase average monthly salary” means the average monthly salary of the employee during months two through twelve of the twelve consecutive month period required by the appropriate subsection.

(8) “Purchase military service” means the amount of military service being purchased by the employee in months up to the sixty-month maximum, calculated in accordance with subdivision (7) of subsection (a) and subdivision (6) of subsection (b) of this section.

(9) “Purchase month” means the month in which the employee deposits the actuarial reserve lump sum purchase amount in full payment of the service credit being purchased or makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full payment of the service credit being purchased.

(10) “Qualifying year” means any year in which a member earns the minimum number of points required to receive credit for the year toward retired pay pursuant to Section 12732 of Title 10, United States Code.

(11) “Service in the West Virginia National Guard” means full-time active duty for annual training in the National Guard, Inactive Duty Training, Active Duty Operational Support, Active Duty Special Work, funeral honors, State Active Duty as a member of the West Virginia National Guard or any other similar periods of Title 32 service or active service of the State of West Virginia.

(12) “West Virginia National Guard” means the West Virginia Army National Guard and the West Virginia Air National Guard.

(d) The board is authorized to determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the board in section one, article ten-d of this chapter, may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to administer this section.
CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-17b. Military service credit for members of the West Virginia National Guard.

(a)(1) The Legislature recognizes the men and women who have dedicated themselves to the defense and service of this state through their service in the West Virginia National Guard. It is the intent of this section to confer military service credit upon members of the Teachers Retirement System for any time served in the West Virginia National Guard when they meet the requirements of this section.

(2) In addition to any benefit provided by federal law, any active member of the retirement system who currently or previously has served in the West Virginia National Guard may purchase credited service for the time served in the West Virginia National Guard, not to exceed sixty months if the following conditions are met:

(A) The active member substantiates by appropriate documentation or evidence his or her service in the West Virginia National Guard;

(B) The active member has completed a complete fiscal year of contributory service to the retirement system on or after July 1, 2015; and

(C) The employee pays to the retirement system the actuarial reserve purchase amount within forty-eight months after July 1, 2015, if he or she was employed with an employer during a complete fiscal year in fiscal year 2016 or the first date on which employer and employee contributions are received by the retirement system for the member for a complete fiscal year if he or she was not employed with an employer for a complete fiscal year during fiscal year 2016 and while he or she continues to be in the employ of an employer and contributing to the retirement system: Provided, That any member who ceases employment with an employer before completing the required actuarial reserve purchase amount in full is not eligible to purchase the military service.
(3) Any member of the retirement system who serves, or has served, in the West Virginia National Guard may purchase one month of military service credit for every fifteen points earned toward a reserve component retirement during a qualifying year as computed in subdivision (7) of this subsection. For purposes of this section, points will be verified using the National Guard Current Annual Statement, Point Credit Summary or other equivalent document, along with any documentation of any periods of active service with the State of West Virginia as verified by the Adjutant General's office. All documentation will be submitted to the retirement board by the active member.

(4) In no event, however, may a member purchase or receive a total of more than sixty months of military service credit under this section, section seventeen-a, article seven-a, chapter eighteen; or any other retirement system administered by the retirement board.

(5) In any case of doubt as to the period of service to be credited a member under the provisions of this section, the retirement board shall have the final power to determine the period.

(6) To receive credit, an active member must submit a request to purchase military service credit to the retirement board, on such form or in such other manner as shall be required by the retirement board, within the complete fiscal year required by this subsection or by October 31, 2016, whichever occurs later. The retirement board shall then calculate the actuarial reserve lump sum purchase amount, which amount must be paid by the employee within the forty-eight-month period required by this subsection, as applicable. An active member purchasing military service credit pursuant to this subsection must do so in a single, lump sum payment: Provided, That the retirement board may accept partial installments or other similar payments if the employee executes a contract with the board specifying the amount of military service to be purchased and the payments required: Provided, however, That any failure to pay the contract amount in accordance with this section shall be treated as an overpayment or excess contribution subject to section fourteen-c of this article and no military service shall be credited.
(7) To calculate the amount of military service credit an active member may purchase, the retirement board shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded up), in order to yield the total number of months of military service credit an active member may purchase, subject to the sixty-month maximum. An active member may purchase in one-month increments all or part of the maximum amount of military service credit for which he or she is eligible.

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

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

(b)(1) Active members of an employer who continue concurrently in active service of the State of West Virginia with the West Virginia National Guard after the eligible period to purchase military service credit as set forth in subsection (a) of this section, or active members who join the West Virginia National Guard after participation in the retirement system has commenced may purchase military service credit earned after the service computed under subsection (a) of this section up to the sixty-month maximum in every even calendar year following if the following conditions are met:

(A) The active member substantiates by appropriate documentation or evidence his or her service in the West Virginia National Guard;

(B) The active member has completed a complete fiscal year of contributory service to the retirement system in the prior odd year; and
(C) The active member pays to the retirement system the actuarial reserve purchase amount within three months from the date of the cost letter provided by the retirement board and while he or she continues to be in the employ of an employer and contributing to the retirement system: *Provided*, That a member who ceases employment with an employer before completing the required actuarial reserve purchase amount in full is not eligible to purchase the military service credit.

(2) Any member of the retirement system who serves or has served in the West Virginia National Guard may purchase one month of military service credit for every fifteen points earned toward a reserve component retirement during a qualifying year as computed in subdivision (6) of this subsection. For purposes of this section, points will be verified using the Army National Guard Current Annual Statement, Point Credit Summary or other equivalent document, along with any documentation of any periods of Active service with the State of West Virginia as verified by the Adjutant General’s Office. All documentation shall be submitted to the retirement board by the active member.

(3) In no event, however, may a member purchase or receive a total of more than sixty months of military service credit under this section, section seventeen-a, article seven-a, chapter eighteen, or any other retirement system administered by the retirement board.

(4) In any case of doubt as to the period of service to be credited a member under the provisions of this section, the retirement board shall have final power to determine the period.

(5) To receive credit, an active member must submit a request to purchase military service credit to the retirement board, on such form or in such other manner as shall be required by the retirement board, by October 31 of each even calendar year following the years computed under subsection (a) of this section. The retirement board shall then calculate the actuarial reserve lump sum purchase amount, which amount must be paid by the active member within three months from the date of the cost letter provided by the retirement board. An active member purchasing military service credit pursuant to this subsection must do so in a single, lump sum payment.
To calculate the amount of military service credit an active member may purchase, the retirement board shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded up), in order to yield the total number of months of military service credit an active member may purchase, subject to the sixty-month maximum. An active member may purchase in one month increments, all or part of the maximum amount of military service credit for which he or she is eligible.

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

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

(c) For purposes of this section:

(1) “Active service of the State of West Virginia” means full-time state active duty in the West Virginia Army National Guard or the West Virginia Air National Guard when the duty is performed upon orders of the Adjutant General of the West Virginia National Guard or the Governor of West Virginia and which is funded entirely by the state.

(2) “Actuarial reserve purchase amount” means the purchase annuity rate multiplied by the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing at seven and one-half percent from the calculation month through the purchase month, compounded monthly: Provided, That if the employee elects to pay the full purchase amount on an installment or partial payment basis as permitted under subsection (a) of this section, the actuarial reserve purchase amount will include the lump sum payment plus additional interest accruing at seven and one-half percent until the purchase amount is paid in full.
(3) “Calculation month” means the month immediately following the month in which the employee completes a complete fiscal year of contributory service with an employer on or after July 2015 for computations under subsection (a) of this section, or the month immediately following the month in which the employee completes a complete fiscal year of contributory service with an employer in the preceding odd calendar year for computations under subsection (b) of this section.

(4) “Purchase accrued benefit” means two percent times the purchase military service times the purchase average monthly salary.

(5) “Purchase age” means the age of the employee in years and completed months as of the first day of the calculation month.

(6) “Purchase annuity rate” means the actuarial lump sum annuity factor calculated as of the calculation month based on the following actuarial assumptions:

(A) Interest rate of seven and one-half percent;

(B) Mortality of the 1971 group annuity mortality table, fifty percent blended male and female rates, applied on a unisex basis to all members; and

(C) If purchase age is under age sixty-two, a deferred annuity factor with payments commencing at age sixty-two; or

(D) If purchase age is sixty-two or over, an immediate annuity factor with payments starting at the purchase age.

(7) “Purchase average monthly salary” means the average monthly salary of the active member during the number of months of the member’s contract during the fiscal year of contributory service as required by this section.

(8) “Purchase military service” means the amount of military service being purchased by the active member in months up to the sixty-month maximum, calculated in accordance with subdivision (7) of subsection (a) and subdivision (6) of Subsection (b) of this section.
(9) "Purchase month" means the month in which the active member deposits the actuarial reserve lump sum purchase amount in full payment of the service credit being purchased or makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full payment of the service credit being purchased.

(10) "Qualifying year" means any year in which a member earns the minimum number of points required to receive credit for the year toward retired pay pursuant to Section 12732 of Title 10, United States Code.

(11) "Service in the West Virginia National Guard" means full-time active duty for annual training in the National Guard, Inactive Duty Training, Active Duty Operational Support, Active Duty Special Work, funeral honors, State Active Duty as a member of the West Virginia National Guard or any other similar periods of Title 32 service or active service of the State of West Virginia.

(12) "West Virginia National Guard" means the West Virginia Army National Guard and the West Virginia Air National Guard.

(d) The retirement board is authorized to determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the retirement board in section one, article ten-d of chapter five, may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to administer this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st Day of April, 2016.

Governor