

# WEST VIRGINIA LEGISLATURE

## 2022 SECOND EXTRAORDINARY SESSION

**Enrolled**

### **Senate Bill 2003**

BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN

(BY REQUEST OF THE EXECUTIVE)

[Passed April 25, 2022; in effect 90 days from passage (July 24, 2022)]

FILED

2022 MAY - 3 P 1:04

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SB2003

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1 AN ACT to amend and reenact §5-10-14 and §5-10-30 of the Code of West Virginia, 1931, as  
2 amended, all relating to service credit, retroactive provisions, and the refund of  
3 accumulated contributions for certain members of the West Virginia Public Employees  
4 Retirement System.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

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

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

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

13 (2) Except for hourly employees, and those persons who first become members of the  
14 retirement system on or after July 1, 2015, 10 or more months of service credit earned in any  
15 calendar year shall be credited as a year of service: *Provided*, That no more than one year of  
16 service may be credited to any member for all service rendered by him or her in any calendar  
17 year and no days may be carried over by a member from one calendar year to another calendar  
18 year where the member has received a full-year credit for that year; and

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

22           (b) The board of trustees shall grant service credit to any former and present member of  
23 the State Teachers Retirement System who has been a contributing member in the Public  
24 Employees Retirement System for more than three years, for service previously credited by the  
25 State Teachers Retirement System and shall require the transfer of the member's accumulated  
26 contributions to the system and shall also require a deposit, with reinstatement interest as set  
27 forth in the board's Rule, Refund, Reinstatement, Retroactive Service, Loan and Correction of  
28 Error Interest Factors, 162 C. S. R. 7, of any withdrawals of contributions any time prior to the  
29 member's retirement: *Provided*, That members of the State Teachers Retirement System who  
30 first became a member of the State Teachers Retirement System on or after July 1, 2022, may  
31 only transfer service credit to the Public Employees Retirement System if they first became a  
32 member of the Public Employees Retirement System on or after July 1, 2015. Repayment of  
33 withdrawals shall be as directed by the Board of Trustees.

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

37           (d) Active members who previously worked in Comprehensive Employment and Training  
38 Act (CETA) may receive service credit for time served in that capacity: *Provided*, That in order to  
39 receive service credit under the provisions of this subsection the following conditions must be  
40 met: (1) The member must have moved from temporary employment with the participating  
41 employer to permanent full-time employment with the participating employer within 120 days  
42 following the termination of the member's CETA employment; (2) the board must receive evidence  
43 that establishes to a reasonable degree of certainty as determined by the board that the member  
44 previously worked in CETA; and (3) the member shall pay to the board an amount equal to the

45 employer and employee contribution plus interest at the amount set by the board for the amount  
46 of service credit sought pursuant to this subsection: *Provided, however,* That the maximum  
47 service credit that may be obtained under the provisions of this subsection is two years: *Provided*  
48 *further,* That a member must apply and pay for the service credit allowed under this subsection  
49 and provide all necessary documentation by March 31, 2003: *And provided further,* That the board  
50 shall exercise due diligence to notify affected employees of the provisions of this subsection.

51 (e) (1) Employees of the State Legislature whose terms of employment are otherwise  
52 classified as temporary and who are employed to perform services required by the Legislature for  
53 its regular sessions or during the interim time between regular sessions shall receive service  
54 credit for the time served in that capacity in accordance with the following: For purposes of this  
55 section, the term "regular session" means day one through day 60 of a 60-day legislative session  
56 or day one through day 30 of a 30-day legislative session. Employees of the State Legislature  
57 whose term of employment is otherwise classified as temporary and who are employed to perform  
58 services required by the Legislature for its regular sessions or during the interim time between  
59 regular sessions and who have been or are employed during regular sessions or during the interim  
60 time between regular sessions in seven consecutive calendar years, as certified by the clerk of  
61 the house in which the employee served, shall receive service credit of six months for all regular  
62 sessions served, as certified by the clerk of the house in which the employee served, or shall  
63 receive service credit of three months for each regular 30-day session served prior to  
64 1971: *Provided,* That employees of the State Legislature whose term of employment is otherwise  
65 classified as temporary and who are employed to perform services required by the Legislature for  
66 its regular sessions and who have been or are employed during the regular sessions in 13  
67 consecutive calendar years as either temporary employees or full-time employees or a  
68 combination thereof, as certified by the clerk of the house in which the employee served, shall  
69 receive a service credit of 12 months for each regular session served, as certified by the clerk of  
70 the house in which the employee served: *Provided, however,* That the amendments made to this

71 subsection during the 2002 regular session of the Legislature only apply to employees of the  
72 Legislature who are employed by the Legislature as either temporary employees or full-time  
73 employees as of January 1, 2002, or who become employed by the Legislature as temporary or  
74 full-time employees for the first time after January 1, 2002. Employees of the State Legislature  
75 whose terms of employment are otherwise classified as temporary and who are employed to  
76 perform services required by the Legislature during the interim time between regular sessions  
77 shall receive service credit of one month for each 10 days served during the interim between  
78 regular sessions, which interim days shall be cumulatively calculated so that any 10 days,  
79 regardless of calendar month or year, shall be calculated toward any award of one month of  
80 service credit: *Provided further*, That no more than one year of service may be credited to any  
81 temporary legislative employee for all service rendered by that employee in any calendar year  
82 and no days may be carried over by a temporary legislative employee from one calendar year to  
83 another calendar year where the member has received a full year credit for that year. Service  
84 credit awarded for legislative employment pursuant to this section shall be used for the purpose  
85 of calculating that member's retirement annuity, pursuant to §5-10-22 of this code, and  
86 determining eligibility as it relates to credited service, notwithstanding any other provision of this  
87 section. Certification of employment for a complete legislative session and for interim days shall  
88 be determined by the clerk of the house in which the employee served, based upon employment  
89 records. Service of 55 days of a regular session constitutes an absolute presumption of service  
90 for a complete legislative session and service of 27 days of a 30-day regular session occurring  
91 prior to 1971 constitutes an absolute presumption of service for a complete legislative session.  
92 Once a legislative employee has been employed during regular sessions for seven consecutive  
93 years or has become a full-time employee of the Legislature, that employee shall receive the  
94 service credit provided in this section for all regular and interim sessions and interim days worked  
95 by that employee, as certified by the clerk of the house in which the employee served, regardless  
96 of when the session or interim legislative employment occurred: *And provided further*, That

97 regular session legislative employment for seven consecutive years may be served in either or  
98 both houses of the Legislature.

99 (2) For purposes of this section, employees of the Joint Committee on Government and  
100 Finance are entitled to the same benefits as employees of the House of Delegates or the  
101 Senate: *Provided*, That for joint committee employees whose terms of employment are otherwise  
102 classified as temporary, employment in preparation for regular sessions, certified by the legislative  
103 manager as required by the Legislature for its regular sessions, shall be considered the same as  
104 employment during regular sessions to meet service credit requirements for sessions served.

105 (f) Any employee may purchase retroactive service credit for periods of employment in  
106 which contributions were not deducted from the employee's pay. In the purchase of service credit  
107 for employment prior to 1989 in any department, including the Legislature, which operated from  
108 the General Revenue Fund and which was not expressly excluded from budget appropriations in  
109 which blanket appropriations were made for the state's share of public employees' retirement  
110 coverage in the years prior to 1989, the employee shall pay the employee's share. Other  
111 employees shall pay the state's share and the employee's share to purchase retroactive service  
112 credit. Where an employee purchases service credit for employment which occurred after 1988,  
113 that employee shall pay for the employee's share and the employer shall pay its share for the  
114 purchase of retroactive service credit: *Provided*, That no legislative employee and no current or  
115 former member of the Legislature may be required to pay any interest or penalty upon the  
116 purchase of retroactive service credit in accordance with the provisions of this section where the  
117 employee was not eligible to become a member during the years for which he or she is purchasing  
118 retroactive credit or had the employee attempted to contribute to the system during the years for  
119 which he or she is purchasing retroactive service credit and the contributions would have been  
120 refused by the board: *Provided, however*, That a current legislative employee purchasing  
121 retroactive credit under this section shall do so within 24 months of beginning contributions to the  
122 retirement system as a legislative employee or no later than December 31, 2016, whichever

123 occurs later: *Provided further*, That once a legislative employee becomes a member of the  
124 retirement system, he or she may purchase retroactive service credit for any time he or she was  
125 employed by the Legislature and did not receive service credit. Any service credit purchased shall  
126 be credited as six months for each 60-day session worked, three months for each 30-day session  
127 worked or 12 months for each 60-day session for legislative employees who have been employed  
128 during regular sessions in 13 consecutive calendar years, as certified by the clerk of the house in  
129 which the employee served, and credit for interim employment as provided in this subsection: *And*  
130 *provided further*, That this legislative service credit shall also be used for months of service in  
131 order to meet the 60-month requirement for the payments of a temporary legislative employee  
132 member's retirement annuity: *And provided further*, That no legislative employee may be required  
133 to pay for any service credit beyond the actual time he or she worked regardless of the service  
134 credit which is credited to him or her pursuant to this section: *And provided further*, That any  
135 legislative employee may request a recalculation of his or her credited service to comply with the  
136 provisions of this section at any time.

137 (g) (1) Notwithstanding any provision to the contrary, the seven consecutive calendar  
138 years requirement and the 13 consecutive calendar years requirement and the service credit  
139 requirements set forth in this section shall be applied retroactively to all periods of legislative  
140 employment prior to the passage of this section, including any periods of legislative employment  
141 occurring before the seven consecutive and 13 consecutive calendar years referenced in this  
142 section: *Provided*, That the employee has not retired prior to the effective date of the amendments  
143 made to this section in the 2002 regular session of the Legislature.

144 (2) The requirement of seven consecutive years and the requirement of 13 consecutive  
145 years apply retroactively to all legislative employment prior to the effective date of the 2006  
146 amendments to this section.

147 (h) The board of trustees shall grant service credit to any former or present member of the  
148 State Police Death, Disability and Retirement Fund who has been a contributing member of this

149 system for more than three years for service previously credited by the State Police Death,  
150 Disability and Retirement Fund if the member transfers all of his or her contributions to the State  
151 Police Death, Disability and Retirement Fund to the system created in this article, including  
152 repayment of any amounts withdrawn any time from the State Police Death, Disability and  
153 Retirement Fund by the member seeking the transfer allowed in this subsection: *Provided*, That  
154 there shall be added by the member to the amounts transferred or repaid under this subsection  
155 an amount which shall be sufficient to equal the contributions he or she would have made had  
156 the member been under the Public Employees Retirement System during the period of his or her  
157 membership in the State Police Death, Disability and Retirement Fund, excluding contributions  
158 on lump sum payment for annual leave, plus interest at a rate determined by the board.

159 (i) The provisions of §5-10-22h of this code are not applicable to the amendments made  
160 to this section during the 2006 regular session.

**§5-10-30. Refund of accumulated contributions.**

1 (a) In the event a member leaves the employ of a participating public employer prior to the  
2 date the member becomes entitled to retire with an annuity payable by the retirement system, the  
3 member shall be paid, upon the member's written application filed with the board of trustees, the  
4 member's accumulated contributions, if the member's separation from the employ of a  
5 participating public employer occurs subsequent to a period of two years of contributing service.  
6 If the member's said separation from the employ of a participating public employer occurs prior to  
7 two years of contributing service, the member shall be paid the member's accumulated  
8 contributions less the total regular interest credited to the member's individual account.

9 (b) In the event a member dies and does not leave a beneficiary entitled to an annuity  
10 payable by the retirement system, the member's accumulated contributions at the time of the  
11 member's death shall be paid to such person or persons as he or she shall have nominated by  
12 written designation duly executed and filed with the board of trustees. If there be no such

13 designated person or persons surviving the said member, the member's said accumulated  
14 contributions shall be paid to the member's estate.

15 (c) In the event a member dies and a refund of the member's contributions is due to be  
16 made to an infant child or children by reason of being the person or persons nominated by written  
17 designation duly executed and filed with the retirement system, and the amount of said refund is  
18 less than \$1,000, then, and in said event, the board of trustees may make said refund, upon  
19 written application, to the closest relative or natural guardian for the use of said infant child or  
20 children. The board of trustees may, at its discretion, require that said relative or natural guardian  
21 post bond with the retirement system to insure that said money will be used for the benefit of said  
22 infant child or children. In any event, before said refund is made to said relative or natural guardian  
23 of the said infant or infants, said relative or natural guardian shall give the retirement system an  
24 indemnifying release of said sums so paid over.

25 (d) In the event a member leaves the employ of a participating public employer and is  
26 entitled to retire with an annuity payable by the retirement system, but will be subject to an annuity  
27 reduction at any time due to the 105 percent provision contained in §5-10-17(b) of this code, the  
28 member may be paid, upon the member's written application filed with the board of trustees, their  
29 accumulated contributions.

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

*Mark Raymond*  
.....  
Chairman, Senate Committee

*Dean Jeffrey*  
.....  
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

*Jee Linn*  
.....  
Clerk of the Senate

*Steve Morris*  
.....  
Clerk of the House of Delegates

*C. P. Br...*  
.....  
President of the Senate

*Ken Harlow*  
.....  
Speaker of the House of Delegates

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2022 MAY - 3 P 1:04

FILED

The within *is approved* this the *3rd*  
*May*  
Day of ..... 2022.

*James Justice*  
.....  
Governor

PRESENTED TO THE GOVERNOR

APR 27 2022

Time 11:19 am