

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 451

By Senators Nelson and Hunt

[Introduced January 24, 2023; referred
to the Committee on Pensions; and then to the
Committee on Finance]

1 A BILL to amend and reenact §18-7A-3, §18-7A-13a, §18-7A-15, and §18-7A-17 of the Code of
 2 West Virginia, 1931, as amended; and to amend and reenact §18-7B-2 and §18-7B-17 of
 3 said code, all relating to the Teachers Retirement System and the Teachers' Defined
 4 Contribution Retirement System; defining and amending terms related to electing charter
 5 schools; defining medical examination; clarifying notification by employer of a retirant re-
 6 employed in a permanent position; adding electing charter schools to provisions of
 7 delinquent contributions; providing for transfer of assets from the Public Employee
 8 Retirement System to the Teachers Retirement System; and adding electing charter
 9 schools to retirement contribution section.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-3. Definitions.

1 As used in this article, unless the context clearly requires a different meaning:
 2 "Accumulated contributions" means all deposits and all deductions from the gross salary of
 3 a contributor plus regular interest.
 4 "Accumulated net benefit" means the aggregate amount of all benefits paid to or on behalf
 5 of a retired member.
 6 "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value
 7 computed upon the basis of the mortality table and interest rates as set and adopted by the
 8 retirement board in accordance with the provisions of this article: Provided, That when used in the
 9 context of compliance with the federal maximum benefit requirements of section 415 of the
 10 Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and
 11 interest rates required to comply with those requirements.
 12 "Annuities" means the annual retirement payments for life granted beneficiaries in
 13 accordance with this article.
 14 "Average final salary" means the average of the five highest fiscal year salaries earned as

15 a member within the last 15 fiscal years of total service credit, including military service as
16 provided in this article, or if total service is less than 15 years, the average annual salary for the
17 period on which contributions were made: *Provided*, That salaries for determining benefits during
18 any determination period may not exceed the maximum compensation allowed as adjusted for
19 cost of living in accordance with §5-10D-7 of this code and section 401(a)(17) of the Internal
20 Revenue Code.

21 "Beneficiary" means the recipient of annuity payments made under the retirement system.

22 "Contributor" means a member of the retirement system who has an account in the
23 Teachers Accumulation Fund.

24 "Deposit" means a voluntary payment to his or her account by a member.

25 "Electing charter school" means a public charter school established pursuant to §18-5G-1
26 et seq. of this code which has elected to participate in this retirement system as permitted in the
27 definitions of "Nonteaching member" and "Teacher member" in this section.

28 "Employer" means the agency of and within the state which has employed or employs a
29 member, a county board of education which has employed or employs a member, or an electing
30 charter school which has employed or employs a member. "Participating public employer" or
31 "participating employer" means "employer" unless the context clearly requires otherwise.

32 "Employer error" means an omission, misrepresentation, or deliberate act in violation of
33 relevant provisions of the West Virginia Code, or of the West Virginia Code of State Regulations, or
34 the relevant provisions of both the West Virginia Code and of the West Virginia Code of State
35 Regulations by the participating public employer that has resulted in an underpayment or
36 overpayment of contributions required.

37 "Employment term" means employment for at least 10 months, a month being defined as
38 20 employment days.

39 "Gross salary" means the fixed annual or periodic cash wages paid by a participating
40 public employer to a member for performing duties for the participating public employer for which

41 the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the
42 work was done. Gross salary also includes retroactive payments made to a member to correct a
43 clerical error, or made pursuant to a court order or final order of an administrative agency charged
44 with enforcing federal or state law pertaining to the member's rights to employment or wages, with
45 all retroactive salary payments to be allocated to and considered paid in the periods in which the
46 work was or would have been done. Gross salary does not include lump sum payments for
47 bonuses, early retirement incentives, severance pay, or any other fringe benefit of any kind
48 including, but not limited to, transportation allowances, automobiles or automobile allowances, or
49 lump sum payments for unused, accrued leave of any type or character.

50 "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been
51 amended.

52 "Medical examination" means an in-person or virtual examination of a member's physical
53 or mental health, or both, by a physician or physicians selected or approved by the board; or, at the
54 discretion of the board, a medical record review of the member's physical or mental health, or
55 both, by a physician selected or approved by the board.

56 "Member" means any person who has accumulated contributions standing to his or her
57 credit in the State Teachers Retirement System. A member shall remain a member until the
58 benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of
59 membership pursuant to §18-7A-13 of this code.

60 "Members of the administrative staff of the public schools" means deans of instruction,
61 deans of men, deans of women, and financial and administrative secretaries.

62 "Members of the extension staff of the public schools" means every agricultural agent,
63 boys and girls club agent, and every member of the agricultural extension staff whose work is not
64 primarily stenographic, clerical, or secretarial.

65 "New entrant" means a teacher who is not a present teacher.

66 "Nonteaching member" means any person, except a teacher member, who is regularly

67 employed for full-time service by: (A) Any county board of education or educational services
68 cooperative; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D)
69 the West Virginia Council for Community and Technical College Education; (E) a governing board,
70 as defined in §18B-1-2 of this code; or (F) a public charter school established pursuant to §18-5G-
71 1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to
72 §18-5G-7 of this code a determination to participate in the retirement systems under this article
73 and §18-7B-1 et seq. of this code, subject to §18-7B-7a: Provided, That any person whose
74 employment with the Higher Education Policy Commission, the West Virginia Council for
75 Community and Technical College Education, or a governing board commences on or after July 1,
76 1991, is not considered a nonteaching member.

77 "Plan year" means the 12-month period commencing on July 1 and ending the following
78 June 30 of any designated year.

79 "Present member" means a present teacher or nonteacher who is a member of the
80 retirement system.

81 "Present teacher" means any person who was a teacher within the 35 years beginning July
82 1, 1934, and whose membership in the retirement system is currently active.

83 "Prior service" means all service as a teacher completed prior to July 1, 1941, and all
84 service of a present member who was employed as a teacher and did not contribute to a
85 retirement account because he or she was legally ineligible for membership during the service.

86 "Public schools" means all publicly supported schools, including colleges and universities
87 in this state. Unless the context clearly requires otherwise, "public school" may not include a public
88 charter school which is not an "electing charter school" as defined herein.

89 "Refund beneficiary" means the estate of a deceased contributor or a person he or she has
90 nominated as beneficiary of his or her contributions by written designation duly executed and filed
91 with the retirement board.

92 "Regular interest" means interest at four percent compounded annually, or a higher

93 earnable rate if set forth in the formula established in legislative rules, series seven of the
94 Consolidated Public Retirement Board, 162 CSR 7.

95 "Regularly employed for full-time service" means employment in a regular position or job
96 throughout the employment term regardless of the number of hours worked or the method of pay.

97 "Required beginning date" means April 1 of the calendar year following the later of: (A) The
98 calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if born
99 after June 30, 1949); or (B) the calendar year in which the member retires or ceases covered
100 employment under the retirement system.

101 "Retirant" means any member who commences an annuity payable by the retirement
102 system.

103 "Retirement board" means the Consolidated Public Retirement Board created pursuant to
104 §5-10D-1 et seq. of this code.

105 "Retirement system" means the State Teachers Retirement System established by this
106 article.

107 "Teacher member" means the following persons, if regularly employed for full-time service:
108 (A) Any person employed by a public school for instructional service in the public schools of West
109 Virginia; (B) principals employed by a public school; (C) ~~public school~~ librarians employed by a
110 public school; (D) superintendents of schools and assistant county superintendents of schools; (E)
111 any county school attendance director holding a West Virginia teacher's certificate; (F) members
112 of the research, extension, administrative, or library staffs of the public schools; (G) the State
113 Superintendent of Schools, heads and assistant heads of the divisions under his or her
114 supervision, or any other employee under the state superintendent performing services of an
115 educational nature; (H) employees of the State Board of Education who are performing services of
116 an educational nature; (I) any person employed in a nonteaching capacity by the State Board of
117 Education, any county board of education, the State Department of Education, or the State
118 Teachers Retirement Board, if that person was formerly employed as a teacher in the public

119 schools; (J) all classroom teachers, principals, and educational administrators in schools under
 120 the supervision of the Division of Corrections and Rehabilitation, the Division of Health, or the
 121 Division of Human Services; (K) an employee of the State Board of School Finance, if that person
 122 was formerly employed as a teacher in the public schools; (L) employees of an educational
 123 services cooperative who are performing services of an educational nature; (M) any person
 124 designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to
 125 remain a member of the State Teachers Retirement System provided in this article; and (N) any
 126 person employed for instructional service or as a principal or librarian by a public charter school
 127 established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter
 128 contract entered into pursuant to §18-5G-7 of this code a determination to participate in the
 129 retirement systems under this article and §18-7B-1 et seq. of this code.

130 "Total service" means all service as a teacher or nonteacher while a member of the
 131 retirement system since last becoming a member and, in addition thereto, credit for prior service, if
 132 any.

133 Age in excess of 70 years shall be considered to be 70 years.

§18-7A-13a. Resumption of service by retired teachers.

1 (a) For the purpose of this section, reemployment of a former or retired teacher as a
 2 teacher shall may in no way impair the teacher's eligibility for a prior service pension or any other
 3 benefit provided by this article.

4 (b) Retired teachers who qualified for an annuity because of age or service may not receive
 5 prior service allowance from the retirement board when employed as a teacher and when regularly
 6 employed by the State of West Virginia. The payment of the allowance shall be discontinued on
 7 the first day of the month within which ~~such~~ the employment begins and shall be resumed on the
 8 first day of the month succeeding the month within which ~~such~~ the employment ceases. The
 9 annuity paid the teacher on first retirement resulting from the Teachers' Accumulation Fund and
 10 the Employers' Accumulation Fund shall continue throughout the governmental service and

11 thereafter according to the option selected by the teacher upon first retirement.

12 (c) Retired teachers who qualified for an annuity because of disability shall may receive no
13 further retirement payments if the retirement board finds that the disability of the teacher no longer
14 exists; payment shall be discontinued on the first day of the month within which the finding is
15 made. If the retired teacher returns to service as a teacher, he or she shall contribute to the
16 Teachers' Accumulation Fund as a member of the system. His or her prior service eligibility, if any,
17 shall not be impaired because of his or her disability retirement. His or her accumulated
18 contributions which were transferred to the benefit fund upon his or her retirement shall be
19 returned to his or her individual account in the Teachers' Accumulation Fund, minus retirement
20 payments received which were not supported by such contributions and interest. Upon
21 subsequent retirement, he or she shall receive credit for all of his or her contributory experience,
22 anything to the contrary in this article notwithstanding.

23 (d) Notwithstanding any provision of this code to the contrary, a person who retires under
24 the system provided by this article may subsequently become employed on either a full-time basis,
25 part-time basis or contract basis by any institution of higher education without any loss of
26 retirement annuity or retirement benefits if the person's retirement commences between the
27 effective date of the enactment of this section in 2002 and December 31, 2002: Provided, That the
28 person shall may not be eligible to participate in any other state retirement system provided by this
29 code.

30 (e) The retirement board ~~is herewith authorized to~~ may require of the retired teachers and
31 their employers such reports as it deems necessary to effectuate the provisions of this section.

32 (f) Prior to any retirant subsequently becoming employed with an employer on a permanent
33 (regularly employed for full-time service), substitute or temporary basis ~~which if full-time would~~
34 ~~qualify the retirant as a teacher member or a nonteaching member~~, the employer shall notify the
35 retirement board and the retirant, in writing, if and when the retirant's potential permanent,
36 substitute or temporary employment will negatively impact the retirant's retired status or benefits.

37 Upon the retirant's acceptance of either permanent, substitute or temporary employment, the
 38 employer shall notify the retirement board, in writing, of the retirant's subsequent employment.

§18-7A-15. Collection of membership contributions.

1 Each employer shall each month deduct six percent from the salary of each employee who
 2 is a member of the retirement system, in an amount not to exceed the amount named in §18-7A-14
 3 of this code, and shall at the end of each month remit to the retirement board the amounts so
 4 deducted, and shall transmit therewith a list of all new members employed and the name and
 5 number of members transferring from another county. At such times as the retirement board may
 6 deem advisable each employer shall report to the retirement board the total amount so deducted
 7 from the salary of each employee. The monthly payments which members would receive from
 8 employers as compensation for service in the absence of this article shall be decreased by the
 9 amount of the contribution due hereunder.

10 Each employer shall be held accountable for the sum composing the contributions made
 11 by its member employees. Whenever any county board of education or electing charter school
 12 ~~shall fail~~ fails to make timely remittance of the member contributions deducted as provided in this
 13 section, the retirement board of school finance shall, upon request of the retirement board, deduct
 14 ~~from the next allotment of state aid for schools made to such county board, and shall transfer to the~~
 15 ~~retirement board, the amount so in default~~ may take such steps as are necessary and authorized
 16 pursuant to § 5-10D-13 of this code.

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

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

7 (b) For service as a teacher in the employment of the federal government, or a state or
8 territory of the United States, or a governmental subdivision of that state or territory, the retirement
9 board shall grant credit to the member: *Provided*, That the member shall pay to the system twelve
10 percent of that member's gross salary earned during the first full year of current employment
11 whether a member of the Teachers Retirement System or the Teachers' Defined Contribution
12 Retirement System, times the number of years for which credit is granted, plus interest at a rate to
13 be determined by the retirement board. The interest shall be deposited in the reserve fund and
14 service credit granted at the time of retirement shall may not exceed the lesser of 10 years or 50
15 percent of the member's total service as a teacher in West Virginia. Any purchase of out-of-state
16 service, as provided in this article, shall may not be used to establish eligibility for a retirement
17 allowance and the retirement board shall grant credit for the purchased service as additional
18 service only: *Provided, however*, That a purchase of out-of-state service is prohibited if the service
19 is used to obtain a retirement benefit from another retirement system: *Provided further*, That
20 salaries paid to members for service prior to entrance into the retirement system shall may not be
21 used to compute the average final salary of the member under the retirement system.

22 (c) No members shall may be considered absent from service while serving as a member
23 or employee of the Legislature of the State of West Virginia during any duly constituted session of
24 that body or while serving as an elected member of a county commission during any duly
25 constituted session of that body.

26 (d) No member shall may be considered absent from service as a teacher or nonteacher
27 while serving as an officer with a statewide professional teaching association, or who has served
28 in that capacity, and no retirant, who served in that capacity while a member, shall may be
29 considered to have been absent from service as a teacher by reason of that service: *Provided*,
30 That the period of service credit granted for that service shall may not exceed 10 years: *Provided*,
31 *however*, That a member or retirant who is serving or has served as an officer of a statewide
32 professional teaching association shall make deposits to the Teachers Retirement System, for the

33 time of any absence, in an amount double the amount which he or she would have contributed in
34 his or her regular assignment for a like period of time.

35 (e) The Teachers Retirement System shall grant service credit to any former or present
36 member of the West Virginia Public Employees Retirement System who has been a contributing
37 member of the Teachers Retirement System for more than three years, for service previously
38 credited by the Public Employees Retirement System upon his or her written request and: (1) Shall
39 require the transfer of the member's Public Employees Retirement System accumulated
40 contributions to the Teachers Retirement System; or (2) shall require a repayment of the amount
41 withdrawn from the Public Employees Retirement System, plus interest at a rate to be determined
42 by the retirement board, compounded annually from the date of withdrawal to the date of payment,
43 any time prior to the member's effective retirement date: *Provided*, That there shall be added by
44 the member to the amounts transferred or repaid under this subsection an amount which shall be
45 sufficient to equal the contributions he or she would have made had the member been under the
46 Teachers Retirement System during the period of his or her membership in the Public Employees
47 Retirement System, plus interest at a rate determined by the retirement board, compounded
48 annually from the date the additional contribution would have been made had the member been
49 under the Teachers Retirement System to the date of payment: *Provided*, That members of the
50 Public Employees Retirement System who first became a member of the Public Employees
51 Retirement System on or after July 1, 2023, may only transfer service credit to the Teachers
52 Retirement System if they first became a member of the Teachers Retirement System on or after
53 July 1, 2015. All interest paid or transferred shall be deposited in the reserve fund.

54 (f) For service as a teacher in an elementary or secondary parochial school, located within
55 this state and fully accredited by the West Virginia Department of Education, the retirement board
56 shall grant credit to the member: *Provided*, That the member shall pay to the system twelve
57 percent of that member's gross salary earned during the first full year of current employment
58 whether a member of the Teachers Retirement System or the Teachers' Defined Contribution

59 Retirement System, times the number of years for which credit is granted, plus interest at a rate to
60 be determined by the retirement board. The interest shall be deposited in the reserve fund and
61 service granted at the time of retirement ~~shall~~ may not exceed the lesser of 10 years or 50 percent
62 of the member's total service as a teacher in the West Virginia public school system. Any purchase
63 of parochial school service, as provided in this section, may not be used to establish eligibility for a
64 retirement allowance and retirement board shall grant credit for the purchase as additional service
65 only: *Provided, however,* That a purchase of parochial school service is prohibited if the service is
66 used to obtain a retirement benefit from another retirement system.

67 (g) Active members who previously worked in Comprehensive Employment and Training
68 Act (CETA) may receive service credit for time served in that capacity: *Provided,* That in order to
69 receive service credit under the provisions of this subsection the following conditions ~~must~~ shall be
70 met: (1) The member ~~must~~ shall have moved from temporary employment with the participating
71 employer to permanent full-time employment with the participating employer within 120 days
72 following the termination of the member's CETA employment; (2) the retirement board ~~must~~ shall
73 receive evidence that establishes to a reasonable degree of certainty as determined by the
74 retirement board that the member previously worked in CETA; and (3) the member shall pay to the
75 retirement board an amount equal to the employer and employee contribution plus interest at the
76 amount set by the retirement board for the amount of service credit sought pursuant to this
77 subsection: *Provided, however,* That the maximum service credit that may be obtained under the
78 provisions of this subsection is two years: *Provided further,* That a member ~~must~~ shall apply and
79 pay for the service credit allowed under this subsection and provide all necessary documentation
80 by March 31, 2003: *And provided further,* That the retirement board shall exercise due diligence to
81 notify affected employees of the provisions of this subsection.

82 (h) If a member is not eligible for prior service credit or pension as provided in this article,
83 then his or her prior service ~~shall~~ may not be considered a part of his or her total service.

84 (i) A member who withdrew from membership may regain his or her former membership

85 rights as specified in §18-7A-13 of this code only in case he or she has served two years since his
86 or her last withdrawal.

87 (j) Subject to the provisions of subsections (a) through (k), inclusive, of this section, the
88 retirement board shall verify as soon as practicable the statements of service submitted. The
89 retirement board shall issue prior service certificates to all persons eligible for the certificates
90 under the provisions of this article. The certificates shall state the length of the prior service credit,
91 but in no case shall the prior service credit exceed 40 years.

92 (k) Notwithstanding any provision of this article to the contrary, when a member is or has
93 been elected to serve as a member of the Legislature, and the proper discharge of his or her duties
94 of public office require that member to be absent from his or her teaching or administrative duties,
95 the time served in discharge of his or her duties of the legislative office are credited as time served
96 for purposes of computing service credit: *Provided*, That the retirement board may not require any
97 additional contributions from that member in order for the retirement board to credit him or her with
98 the contributing service credit earned while discharging official legislative duties: *Provided*,
99 *however*, That nothing in this section may be construed to relieve the employer from making the
100 employer contribution at the member's regular salary rate or rate of pay from that employer on the
101 contributing service credit earned while the member is discharging his or her official legislative
102 duties. These employer payments shall commence as of June 1,2000: *Provided further*, That any
103 member to which the provisions of this subsection apply may elect to pay to the retirement board
104 an amount equal to what his or her contribution would have been for those periods of time he or
105 she was serving in the Legislature. The periods of time upon which the member paid his or her
106 contribution shall then be included for purposes of determining his or her final average salary as
107 well as for determining years of service: And provided further, That a member using the provisions
108 of this subsection is not required to pay interest on any contributions he or she may decide to
109 make.

110 (l) The Teachers Retirement System shall grant service credit to any former member of the

111 State Police Death, Disability and Retirement System who has been a contributing member for
112 more than three years for service previously credited by the State Police Death, Disability and
113 Retirement System; and: (1) Shall require the transfer of the member's contributions to the
114 Teachers Retirement System; or (2) shall require a repayment of the amount withdrawn any time
115 prior to the member's retirement: Provided, That the member shall add to the amounts transferred
116 or repaid under this paragraph an amount which is sufficient to equal the contributions he or she
117 would have made had the member been under the Teachers Retirement System during the period
118 of his or her membership in the State Police Death, Disability and Retirement System plus interest
119 at a rate to be determined by the retirement board compounded annually from the date of
120 withdrawal to the date of payment. The interest paid shall be deposited in the reserve fund.

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-2.

Definitions.

1 As used in this article, unless the context clearly requires a different meaning:

2 "Annual addition" means, for purposes of the limitations under section 415(c) of the
3 Internal Revenue Code, the sum credited to a member's account for any limitation year of: (A)
4 Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cash-outs
5 or contributions as described in section 415(k)(3) of the Internal Revenue Code, rollover
6 contributions and picked-up employee contributions to a defined benefit plan may not be treated
7 as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1.

8 "Annuity account" or "annuity" means an account established for each member to record
9 the deposit of member contributions and employer contributions and interest, dividends, or other
10 accumulations credited on behalf of the member.

11 "Compensation" means the full compensation actually received by members for service
12 whether or not a part of the compensation is received from other funds, federal or otherwise, than
13 those provided by the state or its subdivisions: *Provided*, That annual compensation for
14 determining contributions during any determination period may not exceed the maximum

15 compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and
16 section 401(a)(17) of the Internal Revenue Code: *Provided, however,* That solely for purposes of
17 applying the limitations of section 415 of the Internal Revenue Code to any annual addition,
18 "compensation" has the meaning given it in §18-7B-13(d) of this code.

19 "Consolidated board" or "board" means the Consolidated Public Retirement Board created
20 and established pursuant to §5-10D-1 et seq. of this code.

21 "Defined contribution system" or "system" means the Teachers' Defined Contribution
22 Retirement System created and established by this article.

23 "Electing charter school" means a public charter school established pursuant to § 18-5G-1
24 et seq. of this code which has elected to participate in this retirement system as permitted in the
25 definition of "Member" or "employee" in this section.

26 "Employer" means the agency of and within the State of West Virginia which has employed
27 or employs a member, a county board of education which has employed or employs a member, or
28 an electing charter school which has employed or employs a member. "Participating public
29 employer" or "participating employer" means "employer" unless the context clearly requires
30 otherwise.

31 "Employer contribution" means an amount deposited into the member's individual annuity
32 account on a periodic basis coinciding with the employee's regular pay period by an employer from
33 its own funds.

34 "Employer error" means an omission, misrepresentation or deliberate act in violation of
35 relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or
36 the relevant provisions of both the West Virginia Code and of the West Virginia Code of State
37 Regulations by the participating public employer that has resulted in an underpayment or
38 overpayment of contributions required.

39 "Employment term" means employment for at least 10 months in any plan year with a
40 month being defined as 20 employment days.

41 "Existing employer" means any employer who employed or employs a member of the
42 system.

43 "Existing retirement system" means the State Teachers Retirement System established in
44 §18-7A-1 et seq. of this code.

45 "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been
46 amended.

47 "Member" or "employee" means the following persons, if regularly employed for full-time
48 service: (A) Any person employed by a public school for instructional service in the public schools
49 of West Virginia; (B) principals employed by a public school; (C) ~~public school~~ librarians employed
50 by a public school; (D) superintendents of schools and assistant county superintendents of
51 schools; (E) any county school attendance director holding a West Virginia teacher's certificate;
52 (F) members of the research, extension, administrative, or library staffs of the public schools; (G)
53 the State Superintendent of Schools, heads and assistant heads of the divisions under his or her
54 supervision, or any other employee under the state superintendent performing services of an
55 educational nature; (H) employees of the State Board of Education who are performing services of
56 an educational nature; (I) any person employed in a nonteaching capacity by the State Board of
57 Education, any county board of education, an electing charter school, or the State Department of
58 Education, if that person was formerly employed as a teacher in the public schools; (J) all
59 classroom teachers, principals, and educational administrators in schools under the supervision of
60 the Division of Corrections and the Department of Health and Human Resources; (K) any person
61 who is regularly employed for full-time service by any county board of education, electing charter
62 school, educational services cooperative, or the State Board of Education; (L) the administrative
63 staff of the public schools including deans of instruction, deans of men and deans of women, and
64 financial and administrative secretaries; (M) any person designated as a 21st Century Learner
65 Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers'
66 Defined Contribution Retirement System established by this article; and (N) any person employed

67 by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter
68 school includes in its charter contract entered into pursuant to §18-5G-7 of this code a
69 determination to participate in the retirement systems under this article, subject to §18-7B-7a, and
70 §18-7A-1 et seq. of this code.

71 "Member contribution" means an amount reduced from the employee's regular pay
72 periods, and deposited into the member's individual annuity account within the Teachers' Defined
73 Contribution Retirement System.

74 "Permanent, total disability" means a mental or physical incapacity requiring absence from
75 employment service for at least six months: Provided, That the incapacity is shown by an
76 examination by a physician or physicians selected by the board: *Provided, however,* That for
77 employees hired on or after July 1, 2005, "permanent, total disability" means an inability to engage
78 in substantial gainful activity by reason of any medically determinable physical or mental
79 impairment that can be expected to result in death, or has lasted or can be expected to last for a
80 continuous period of not less than 12 months and the incapacity is so severe that the member is
81 likely to be permanently unable to perform the duties of the position the member occupied
82 immediately prior to his or her disabling injury or illness.

83 "Plan year" means the 12-month period commencing on July 1 of any designated year and
84 ending on the following June 30.

85 "Public schools" means all publicly supported schools, including normal schools, colleges,
86 and universities in this state. Unless the context clearly requires otherwise, "public school" shall
87 not include a public charter school which is not an "electing charter school" as defined herein.

88 "Regularly employed for full-time service" means employment in a regular position or job
89 throughout the employment term regardless of the number of hours worked or the method of pay.

90 "Required beginning date" means April 1 of the calendar year following the later of: (A) The
91 calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if born
92 after June 30, 1949); or (B) the calendar year in which the member retires or otherwise ceases

93 employment with a participating employer.

94 "Retirement" means a member's withdrawal from the active employment of a participating
95 employer and completion of all conditions precedent to retirement.

96 "Year of employment service" means employment for at least 10 months, with a month
97 being defined as 20 employment days: Provided, That no more than one year of service may be
98 accumulated in any 12-month period.

§18-7B-17. Deposits to the members' annuity accounts.

1 Beginning on July 1, 1991 and thereafter, each county board of education or electing
2 charter school shall deposit in the member's annuity account created pursuant to §18-7B-9 of this
3 code an amount equal to seven and one-half percent of all compensation paid to members of the
4 defined contribution system in excess of that authorized for minimum salaries in §18A-4-2 and
5 §§18A-4-8a of this code to the extent that the excess exceeds the amount distributed for salary
6 equity to the county.

NOTE: The purpose of this bill is to update "electing charter schools" in the Teachers Retirement System (TRS) and Teachers' Defined Contribution Retirement System (TDC); defining "medical examination"; clarifying employers are to notify CPRB if a TRS retirant is re-employed in a permanent position; and permitting PERS members hired on or after July 1, 2023 to only be able to transfer PERS service to TRS if they are a TRS Tier 2 member.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.