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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2778

(By Delegates Hubbard and Harrison)

Passed April 14, 2001

In Effect Ninety Days from Passage

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H. B. 2778

(BY DELEGATES HUBBARD AND HARRISON)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact sections thirteen and seventeen, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the teachers retirement system and providing that the interest rate charged members for repayment of service previously withdrawn shall be as set by the consolidated public retirement board in legislative rules.

Be it enacted by the Legislature of West Virginia:

That sections thirteen and seventeen, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-13. Membership in retirement system; cessation of membership; reinstatement of withdrawn service.

1 The membership of the retirement system shall consist of
2 the following:

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3 (a) New entrants, whose membership in the system is
4 compulsory upon employment as teachers and nonteachers.

5 (b) The membership of the retirement system shall not
6 include any person who is an active member of or who has been
7 retired by the West Virginia public employees retirement
8 system, the judge's retirement system, or the retirement system
9 of the department of public safety or the supplemental retire-
10 ment system as provided in section four-a, article twenty-three
11 of this chapter. The membership of any person in the retirement
12 system ceases:

13 (1) Upon the withdrawal of accumulated contributions after
14 the cessation of service; or (2) upon retirement; or (3) at death;
15 or (4) if service amounts to fewer than five years in any period
16 of ten consecutive years.

17 (c) Any former member of the retirement system who has
18 withdrawn accumulated contributions but subsequently reenters
19 the retirement system may repay to the retirement fund the
20 amount withdrawn, plus interest at a rate set by the Board,
21 compounded annually from the date of withdrawal to the date
22 of repayment: *Provided*, That no repayment may be made until
23 the former member has completed two years of contributory
24 service after reentry; and the member shall be accorded all the
25 rights to prior service and experience as were held at the time
26 of withdrawal of the accumulated contributions: *Provided*,
27 *however*, That no withdrawn service may be reinstated that has
28 been transferred to another retirement system from which the
29 member is currently or will in the future draw benefits based on
30 the same service. The interest paid shall be deposited in the
31 reserve fund.

32 (d) No member is eligible for prior service credit unless he
33 or she is eligible for prior service pension, as prescribed by
34 section twenty-two of this article; however, a new entrant who

35 becomes a present teacher as provided in this subdivision shall
36 be considered eligible for prior service pension upon retirement.

37 (e) Any individual who is a leased employee is not eligible
38 to participate in the system. For purposes of this system, a
39 "leased employee" means any individual who performs services
40 as an independent contractor or pursuant to an agreement with
41 an employee leasing organization or other similar organization.
42 If a question arises regarding the status of an individual as a
43 leased employee, the board has final power to decide the
44 question.

**§18-7A-17. Statement and computation of teachers' service;
qualified military service.**

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

10 (b) For the purpose of this article, the retirement board shall
11 grant prior service credit to new entrants and other members of
12 the retirement system for service in any of the armed forces of
13 the United States in any period of national emergency within
14 which a federal Selective Service Act was in effect. For
15 purposes of this section, "armed forces" includes women's
16 army corps, women's appointed volunteers for emergency
17 service, army nurse corps, spars, women's reserve and other
18 similar units officially parts of the military service of the United
19 States. The military service is considered equivalent to public
20 school teaching, and the salary equivalent for each year of that
21 service is the actual salary of the member as a teacher for his or

22 her first year of teaching after discharge from military service.
23 Prior service credit for military service shall not exceed ten
24 years for any one member, nor shall it exceed twenty-five
25 percent of total service at the time of retirement. Notwithstand-
26 ing the preceding provisions of this subsection, contributions,
27 benefits and service credit with respect to qualified military
28 service shall be provided in accordance with Section 414(u) of
29 the Internal Revenue Code. For purposes of this section,
30 "qualified military service" has the same meaning as in Section
31 414(u) of the Internal Revenue Code. The retirement board is
32 authorized to determine all questions and make all decisions
33 relating to this section and, pursuant to the authority granted to
34 the retirement board in section one, article ten-d, chapter five of
35 this code, may promulgate rules relating to contributions,
36 benefits and service credit to comply with Section 414(u) of the
37 Internal Revenue Code.

38 (c) For service as a teacher in the employment of the federal
39 government, or a state or territory of the United States, or a
40 governmental subdivision of that state or territory, the retire-
41 ment board shall grant credit to the member: *Provided*, That the
42 member shall pay to the system double the amount he or she
43 contributed during the first full year of current employment,
44 times the number of years for which credit is granted, plus
45 interest at a rate to be determined by the retirement board. The
46 interest shall be deposited in the reserve fund and service credit
47 granted at the time of retirement shall not exceed the lesser of
48 ten years or fifty percent of the member's total service as a
49 teacher in West Virginia. Any transfer of out-of-state service,
50 as provided in this article, shall not be used to establish
51 eligibility for a retirement allowance and the retirement board
52 shall grant credit for the transferred service as additional service
53 only: *Provided, however*, That a transfer of out-of-state service
54 is prohibited if the service is used to obtain a retirement benefit
55 from another retirement system: *Provided further*, That salaries
56 paid to members for service prior to entrance into the retirement

57 system shall not be used to compute the average final salary of
58 the member under the retirement system.

59 (d) Service credit for members or retired members shall not
60 be denied on the basis of minimum income rules promulgated
61 by the teachers retirement board: *Provided*, That the member or
62 retired member shall pay to the system the amount he or she
63 would have contributed during the year or years of public
64 school service for which credit was denied as a result of the
65 minimum income rules of the teachers retirement board.

66 (e) No members shall be considered absent from service
67 while serving as a member or employee of the Legislature of
68 the state of West Virginia during any duly constituted session
69 of that body or while serving as an elected member of a county
70 commission during any duly constituted session of that body.

71 (f) No member shall be considered absent from service as
72 a teacher while serving as an officer with a statewide profes-
73 sional teaching association, or who has served in that capacity,
74 and no retired teacher, who served in that capacity while a
75 member, shall be considered to have been absent from service
76 as a teacher by reason of that service: *Provided*, That the period
77 of service credit granted for that service shall not exceed ten
78 years: *Provided, however*, That a member or retired teacher
79 who is serving or has served as an officer of a statewide
80 professional teaching association shall make deposits to the
81 teachers retirement board, for the time of any absence, in an
82 amount double the amount which he or she would have
83 contributed in his or her regular assignment for a like period of
84 time.

85 The teachers retirement board shall grant service credit to
86 any former or present member of the West Virginia public
87 employees retirement system who has been a contributing
88 member for more than three years, for service previously

89 credited by the public employees retirement system and: (1)
90 Shall require the transfer of the member's contributions to the
91 teachers retirement system; or (2) shall require a repayment of
92 the amount withdrawn any time prior to the member's retire-
93 ment: *Provided*, That there shall be added by the member to the
94 amounts transferred or repaid under this subsection an amount
95 which is sufficient to equal the contributions he or she would
96 have made had the member been under the teachers retirement
97 system during the period of his or her membership in the public
98 employees retirement system plus interest compounded
99 annually from the date of withdrawal to the date of payment at
100 a rate set by the Board. The interest paid shall be deposited in
101 the reserve fund.

102 (g) For service as a teacher in an elementary or secondary
103 parochial school, located within this state and fully accredited
104 by the West Virginia department of education, the retirement
105 board shall grant credit to the member: *Provided*, That the
106 member shall pay to the system double the amount contributed
107 during the first full year of current employment, times the
108 number of years for which credit is granted, plus interest at a
109 rate to be determined by the retirement board. The interest shall
110 be deposited in the reserve fund and service granted at the time
111 of retirement shall not exceed the lesser of ten years or fifty
112 percent of the member's total service as a teacher in the West
113 Virginia public school system. Any transfer of parochial school
114 service, as provided in this section, may not be used to establish
115 eligibility for a retirement allowance and the board shall grant
116 credit for the transfer as additional service only: *Provided*,
117 *however*, That a transfer of parochial school service is prohib-
118 ited if the service is used to obtain a retirement benefit from
119 another retirement system.

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

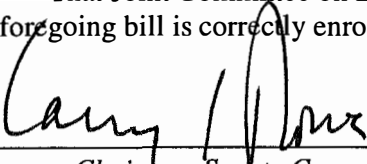
123 (i) A member who withdrew from membership may regain
124 his or her former membership rights as specified in section
125 thirteen of this article only in case he or she has served two
126 years since his or her last withdrawal.

127 (j) Subject to the provisions of subsections (a) through (i),
128 inclusive, of this section, the board shall verify as soon as
129 practicable the statements of service submitted. The retirement
130 board shall issue prior service certificates to all persons eligible
131 for the certificates under the provisions of this article. The
132 certificates shall state the length of the prior service credit, but
133 in no case shall the prior service credit exceed forty years.

134 Notwithstanding any provision of this article to the con-
135 trary, when a member is or has been elected to serve as a
136 member of the Legislature, and the proper discharge of his or
137 her duties of public office require that member to be absent
138 from his or her teaching or administrative duties, the time
139 served in discharge of his or her duties of the legislative office
140 are credited as time served for purposes of computing service
141 credit: *Provided*, That the board may not require any additional
142 contributions from that member in order for the board to credit
143 him or her with the contributing service credit earned while
144 discharging official legislative duties: *Provided, however*, That
145 nothing in this section may be construed to relieve the employer
146 from making the employer contribution at the member's regular
147 salary rate or rate of pay from that employer on the contributing
148 service credit earned while the member is discharging his or her
149 official legislative duties. These employer payments shall
150 commence as of the first day of June, two thousand: *Provided*
151 *further*, That any member to which the provisions of this
152 subsection apply may elect to pay to the board an amount equal
153 to what his or her contribution would have been for those
154 periods of time he or she was serving in the Legislature. The
155 periods of time upon which the member paid his or her contri-
156 bution shall then be included for purposes of determining his or

157 her final average salary as well as for determining years of
158 service: *And provided further*, That a member utilizing the
159 provisions of this subsection is not required to pay interest on
160 any contributions he or she may decide to make.

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



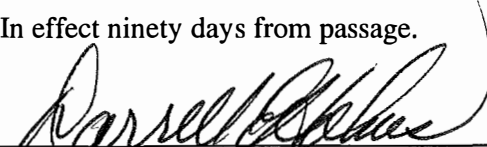
Chairman Senate Committee



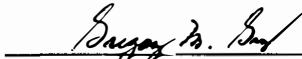
Chairman House Committee

Originating in the House.

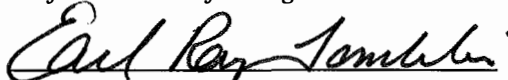
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

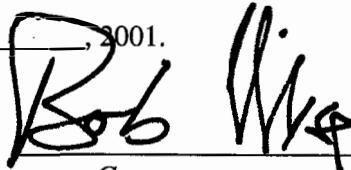


President of the Senate



Speaker of the House of Delegates

The within is appended this the 2nd
day of May, 2001.



Governor

PRESENTED TO THE
GOVERNOR

Date 4/27/01

Time 4:20 pm