

Senate Bill No. 622

(By Senator Plymale)

[Introduced February 17, 2012; referred to the Committee on
Pensions; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §18-7B-11 of the Code of West Virginia,
1931, as amended, relating to Teachers' Defined Contribution
Retirement System; terminating membership; and exception.

Be it enacted by the Legislature of West Virginia:

That §18-7B-11 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-11. Termination of membership; exception.

(a) Any member whose employment with a participating employer
terminates after the completion of six complete years of employment
service is eligible to terminate his or her annuity account and
receive a distribution from the member's annuity account, in an
amount equal to the member's contribution plus one third of the
employer contributions and any earnings thereon. Any member whose

1 employment with a participating employer terminates after the
2 completion of nine complete years of employment service is eligible
3 to terminate his or her annuity account and receive a distribution
4 from the member's annuity account, in an amount equal to the
5 member's contribution plus two thirds of the employer's
6 contributions and any earnings thereon. Any member whose
7 employment with a participating employer terminates after the
8 completion of twelve complete years of employment service is
9 eligible to terminate his or her annuity account and receive a
10 distribution of all funds contributed and accumulated in his or her
11 annuity account. Any member whose employment with a participating
12 employer terminates prior to the completion of six complete years
13 of employment service is eligible to terminate his or her annuity
14 account and receive a distribution from the member's annuity
15 account, in an amount equal to the member's contribution plus any
16 earnings thereon: *Provided*, That on the death or permanent, total
17 disability of any member, that member is eligible to terminate his
18 or her annuity account and receive all funds contributed to or
19 accumulated in his or her annuity account.

20 (b) (1) Upon termination of employment, regardless of whether
21 the member has taken a distribution of all or a portion of his or
22 her vested account, the remaining balance, if any, in the member's
23 employer account that is not vested shall be remitted and paid into
24 a suspension account to be administered by the board. The board

1 shall propose rules for legislative approval in accordance with
2 article three, chapter twenty-nine-a of this code regarding the
3 distribution of any balance in the special account created by this
4 section: *Provided*, That any funds in the account shall be used
5 solely for the purpose of reducing employer contributions in future
6 years.

7 (2) Any account balances remitted to the suspension account
8 herein shall be maintained by the board in the suspension account
9 in the name of the terminated employee for a period of five years
10 following the member's termination of employment. For each
11 terminated employee at the culmination of the five-year period, the
12 board shall certify in writing to each contributing employer the
13 amount of the account balance plus earnings thereon attributable to
14 each separate contributing employer's previously terminated
15 employee's account which, has been irrevocably forfeited due to the
16 elapse of a five-year period since termination pursuant to section
17 sixteen of this article.

18 (c) Upon certification to the several contributing employers
19 of the aggregate account balances plus earnings thereon which have
20 been irrevocably forfeited pursuant to this section, the several
21 contributing employers shall be permitted in the next succeeding
22 fiscal year or years to reduce their total aggregate contribution
23 requirements pursuant to section seventeen of this article, for the
24 then current fiscal year by an amount equal to the aggregate

1 amounts irrevocably forfeited and certified as such to each
2 contributing employer: *Provided*, That should the participating
3 employer no longer be contributing to the Defined Contribution
4 System, any funds in the account shall be paid directly to the
5 employer: *Provided, however, That the board shall pay River Valley*
6 *Child Development Services directly any funds in the account no*
7 *later than June 30, 2012 for employees who have been reported to*
8 *the board as terminated for greater than five years.*

9 (d) Upon the use of the amounts irrevocably forfeited to any
10 contributing employer as a reduction in the then current fiscal
11 year contribution obligation and upon notification provided by the
12 several contributing employers to the board of their intention to
13 use irrevocably forfeited amounts, the board shall direct the
14 distribution of the irrevocably forfeited amounts from the
15 suspension account to be deposited on behalf of the contributing
16 employer to the member annuity accounts of its then current
17 employees pursuant to section seventeen of this article: *Provided*,
18 That notwithstanding any provision of this article to the contrary,
19 when a member is or has been elected to serve as a member of the
20 Legislature, and the proper discharge of his or her duties of
21 public office requires that member to be absent from his or her
22 teaching, nonteaching or administrative duties, the time served in
23 discharge of his or her duties of the legislative office are
24 credited as time served for purposes of computing service credit,

1 regardless when this time was served: *Provided, however,* That the
2 board may not require any additional contributions from that member
3 in order for the board to credit him or her with the contributing
4 service credit earned while discharging official legislative
5 duties: *Provided further,* That nothing herein may be construed to
6 relieve the employer from making the employer contribution at the
7 member's regular salary rate or rate of pay from that employer on
8 the contributing service credit earned while the member is
9 discharging his or her official legislative duties. These employer
10 payments shall commence as of July 1, 2003: *And provided further,*
11 That any member to which the provisions of this subsection apply
12 may elect to pay to the board an amount equal to what his or her
13 contribution would have been for those periods of time he or she
14 was serving in the Legislature.

NOTE: The purpose of this bill is to facilitate payment to an employer fund in a suspension account for employees reported to have been terminated more than five years.

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