

# Senate Bill No. 470

(By Senators Foster, Edgell, Jenkins, McCabe and Hall)

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[Originating in the Committee on Pensions;  
reported January 31, 2012.]

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A BILL to amend and reenact §18-7A-25 of the Code of West Virginia, 1931, as amended, relating to medical examinations to qualify for a disability annuity under the Teachers Retirement System.

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

That §18-7A-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

**§18-7A-25. Eligibility for retirement allowance.**

- 1       (a) Any member who has attained the age of sixty years
- 2       or who has had thirty-five years of total service as a teacher
- 3       in West Virginia, regardless of age, is eligible for an annuity.
- 4       No new entrant nor present member is eligible for an
- 5       annuity, however, if either has less than five years of service
- 6       to his or her credit.

7       (b) Any member who has attained the age of fifty-five  
8   years and who has served thirty years as a teacher in West  
9   Virginia is eligible for an annuity.

10       (c) Any member who has served at least thirty but less  
11   than thirty-five years as a teacher or nonteaching member in  
12   West Virginia and is less than fifty-five years of age is  
13   eligible for an annuity, but the annuity shall be the reduced  
14   actuarial equivalent of the annuity the member would have  
15   received if the member were age fifty-five at the time such  
16   annuity was applied for.

17       (d) The request for any annuity shall be made by the  
18   member in writing to the retirement board, but in case of  
19   retirement for disability, the written request may be made by  
20   either the member or the employer.

21       (e) A member is eligible for annuity for disability if he or  
22   she satisfies the conditions in either subdivision (1) or (2) of  
23   this subsection and meets the conditions of subdivision (3) of  
24   this subsection as follows: (1) His or her service as a teacher  
25   or nonteaching member in West Virginia must total at least  
26   ten years and service as a teacher or nonteaching member  
27   must have been terminated because of disability, which  
28   disability must have caused absence from service for at least

29 six months before his or her application for disability  
30 annuity is approved. (2) His or her service as a teacher or  
31 nonteaching member in West Virginia must total at least five  
32 years and service as a teacher or nonteaching member must  
33 have been terminated because of disability, which disability  
34 must have caused absence from service for at least six  
35 months before his or her application for disability annuity is  
36 approved and the disability is a direct and total result of an  
37 act of student violence directed toward the member. (3) An  
38 examination by the member's physician and a physician or  
39 physicians selected by the Retirement Board must show that  
40 the member is at the time mentally or physically incapacitated  
41 for service as a teacher, that for that service the  
42 disability is total and likely to be permanent and that he or  
43 she should be retired in consequence of the disability.

44 (f) Continuance of the disability of the retired member  
45 shall be established by medical examination, as prescribed  
46 in subdivision (3), subsection (e) of this section, annually for  
47 five years after retirement, and thereafter at such times  
48 required by the retirement board. Effective July 1, 1998, a  
49 member who has retired because of a disability may select an  
50 option of payment under the provisions of section twenty-

51 eight of this article: *Provided*, That any option selected  
52 under the provisions of section twenty-eight of this article  
53 shall be in all respects the actuarial equivalent of the  
54 straight life annuity benefit the disability retiree receives or  
55 would receive if the options under said section were not  
56 available and that no beneficiary or beneficiaries of the  
57 disability annuitant may receive a greater benefit, nor  
58 receive any benefit for a greater length of time, than the  
59 beneficiary or beneficiaries would have received had the  
60 disability retiree not made any election of the options  
61 available under said section. In determining the actuarial  
62 equivalence, the board shall take into account the life  
63 expectancies of the member and the beneficiary: *Provided*,  
64 *however*, That the life expectancies may at the discretion of  
65 the board be established by an underwriting medical director  
66 of a competent insurance company offering annuities.  
67 Payment of the disability annuity provided in this article  
68 shall cease immediately if the retirement board finds that the  
69 disability of the retired teacher no longer exists, or if the  
70 retired teacher refuses to submit to medical examination as  
71 required by this section.

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(NOTE: The purpose of this bill is to require a medical examination performed by a member's selected physician showing the member is mentally or physically totally incapacitated for service and that the disability is likely to be permanent; consistent with current practice by the Consolidated Public Retirement Board.

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