

Senate Bill No. 507

(By Senators Cann, Jenkins and McCabe)

[Introduced March 13, 2013; referred to the Committee on Pensions.]

A BILL to amend and reenact §5-10-31 of the Code of West Virginia, 1931, as amended; and to amend and reenact §15-2A-5 of said code, all relating to removing the requirement to set employer contribution rate for the Public Employees Retirement System and the State Police Retirement System by legislative rule; and clarifying funding rate which affects employee contribution rate in State Police Retirement System.

Be it enacted by the Legislature of West Virginia:

That §5-10-31 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §15-2A-5 of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

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

**§5-10-31. Employers accumulation fund; employers
contributions.**

1 (a) The employers accumulation fund is hereby
2 continued. It ~~shall be~~ is the fund in which shall be
3 accumulated the contributions made by the participating
4 public employers to the retirement system, and from which
5 transfers shall be made as provided in this section.

6 (b) Based upon the provisions of section thirteen of this
7 article, the participating public employers' contributions to
8 the retirement system, as determined by the Consolidated
9 Public Retirement Board ~~by legislative rule promulgated in~~
10 ~~accordance with the provisions of article three, chapter~~

11 ~~twenty-nine-a of this code~~, shall be a percent of the members'
12 total annual compensation related to benefits under this
13 retirement system. In determining the amount, the board
14 shall give consideration to setting the amount at a sum equal
15 to an amount which, if paid annually by the participating
16 public employers, will be sufficient to provide for the total
17 normal cost of the benefits expected to become payable to all
18 members and to amortize any unfunded liability found by
19 application of the actuarial funding method chosen for that
20 purpose by the Consolidated Public Retirement Board, over
21 a period of years determined actuarially appropriate. ~~When~~
22 ~~proposing a rule for promulgation which relates to the~~
23 ~~amount of employer contribution, the board may promulgate~~
24 ~~emergency rules pursuant to the provisions of article three,~~
25 ~~chapter twenty-nine-a of this code, if the inability of the~~
26 ~~board to increase employer contributions will detrimentally~~
27 ~~affect the actuarial soundness of the retirement system. A~~
28 ~~signed statement from the state actuary shall accompany the~~
29 ~~statement of facts and circumstances constituting an~~

30 ~~emergency which shall be filed in the state Register. For~~
31 ~~purposes of this section, subdivision (2), subsection (b);~~
32 ~~section fifteen-a, article three, chapter twenty-nine-a of this~~
33 ~~code is not applicable to the Secretary of State's~~
34 ~~determination of whether an emergency rule should be~~
35 ~~approved.~~

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-5. Employee contributions; employer contributions; forfeitures.

1 (a) There shall be deducted from the monthly payroll of
2 each employee and paid into the fund created pursuant to
3 section four of this article twelve percent of the amount of his
4 or her salary: *Provided*, That after July 1, 2008, if the
5 ~~unfunded liability~~ funding percentage falls below the ninety-
6 percent threshold, then the employee rate of contribution
7 shall be increased to thirteen percent of the amount of the
8 employee's salary until the ninety-percent or better funding

9 level is again achieved. Once that funding level is achieved
10 the employee contribution rate will be reduced to twelve
11 percent.

12 (b) The State of West Virginia's contributions to the
13 retirement system, as determined by the board by legislative
14 rule promulgated in accordance with the provisions of article
15 three, chapter twenty-nine-a of this code, shall be a percent
16 of the employees' total annual base salary related to benefits
17 under this retirement system. In determining the amount, the
18 board shall give consideration to setting the amount at a sum
19 equal to an amount which, if paid annually by the state, will
20 be sufficient to provide for the total normal cost of the
21 benefits expected to become payable to all members and
22 retirants and to amortize any unfunded liability found by
23 application of the actuarial funding method chosen for that
24 purpose by the board over a period of years determined
25 actuarially appropriate. ~~When proposing a rule for~~
26 ~~promulgation which relates to the amount of employer~~
27 ~~contribution, the board may promulgate emergency rules~~

28 ~~pursuant to the provisions of article three, chapter~~
29 ~~twenty-nine-a of this code if the inability of the board to~~
30 ~~increase state contributions will detrimentally affect the~~
31 ~~actuarial soundness of the retirement system. A signed~~
32 ~~statement from the state actuary shall accompany the~~
33 ~~statement of facts and circumstances constituting an~~
34 ~~emergency which shall be filed in the state Register. For~~
35 ~~purposes of this section, subdivision (2), subsection (b),~~
36 ~~section fifteen-a, article three, chapter twenty-nine-a of this~~
37 ~~code is not applicable to the Secretary of State's~~
38 ~~determination of whether an emergency rule should be~~
39 ~~approved.~~ The state's contributions shall be paid monthly
40 into the fund created pursuant to section four of this article
41 out of the annual appropriation for the agency.

42 (c) Notwithstanding any other provisions of this article,
43 forfeitures under the system shall not be applied to increase
44 the benefits any member or retirant would otherwise receive
45 under the system.

(NOTE: The purpose of this bill is to remove the requirement for the Consolidated Public Retirement Board to set the employer contribution rate to the Public Employees Retirement System and the State Police Retirement System by legislative rule. The bill also clarifies the funding level which affects employee contribution rates for the State Police Retirement System.

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