

# ENROLLED

## H. B. 2469

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(BY DELEGATE(S) PERRY, STAGGERS, SWARTZMILLER,  
WALKER, BARILL AND WILLIAMS)

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[Passed April 13, 2013; in effect ninety days from passage.]

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AN ACT to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended, relating to increasing the cap on earnings during temporary reemployment after retirement.

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

That §5-10-48 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§5-10-48. Reemployment after retirement; options for holder of elected public office.**

- 1 (a) The Legislature finds that a compelling state interest
- 2 exists in maintaining an actuarially sound retirement system and
- 3 that this interest necessitates that certain limitations be placed
- 4 upon an individual's ability to retire from the system and to then

5 later return to state employment as an employee with a  
6 participating public employer while contemporaneously drawing  
7 an annuity from the system. The Legislature hereby further finds  
8 and declares that the interests of the public are served when  
9 persons having retired from public employment are permitted,  
10 within certain limitations, to render post-retirement employment  
11 in positions of public service, either in elected or appointed  
12 capacities. The Legislature further finds and declares that it has  
13 the need for qualified employees and that in many cases an  
14 employee of the Legislature will retire and be available to return  
15 to work for the Legislature as a per diem employee. The  
16 Legislature further finds and declares that in many instances  
17 these employees have particularly valuable expertise which the  
18 Legislature cannot find elsewhere. The Legislature further finds  
19 and declares that reemploying these persons on a limited per  
20 diem basis after they have retired is not only in the best interests  
21 of this state, but has no adverse effect whatsoever upon the  
22 actuarial soundness of this particular retirement system.

23 (b) For the purposes of this section: (1) “Regularly employed  
24 on a full-time basis” means employment of an individual by a  
25 participating public employer, in a position other than as an  
26 elected or appointed public official, which normally requires  
27 twelve months per year service and at least one thousand forty  
28 hours of service per year in that position; (2) “temporary  
29 full-time employment or temporary part-time employment”  
30 means employment of an individual on a temporary or  
31 provisional basis by a participating public employer, other than  
32 as an elected or appointed public official, in a position which  
33 does not otherwise render the individual as regularly employed;  
34 (3) “former employee of the Legislature” means any person who  
35 has retired from employment with the Legislature and who has  
36 at least ten years’ contributing service with the Legislature; and  
37 (4) “reemployed by the Legislature” means a former employee  
38 of the Legislature who has been reemployed on a per diem basis  
39 not to exceed one hundred seventy-five days per calendar year.

40 (c) In the event a retirant becomes regularly employed on a  
41 full-time basis by a participating public employer, payment of  
42 his or her annuity shall be suspended during the period of his or  
43 her reemployment and he or she shall become a contributing  
44 member to the retirement system. If his or her reemployment is  
45 for a period of one year or longer, his or her annuity shall be  
46 recalculated and he or she shall be granted an increased annuity  
47 due to the additional employment, the annuity to be computed  
48 according to section twenty-two of this article. A retirant may  
49 accept legislative per diem, temporary full-time or temporary  
50 part-time employment from a participating employer without  
51 suspending his or her retirement annuity so long as he or she  
52 does not receive annual compensation in excess of \$20,000.

53 (d) In the event a member retires and is then subsequently  
54 elected to a public office or is subsequently appointed to hold an  
55 elected public office, or is a former employee of the Legislature  
56 who has been reemployed by the Legislature, he or she has the  
57 option, notwithstanding subsection (c) of this section, to either:

58 (1) Continue to receive payment of his or her annuity while  
59 holding public office or during any reemployment of a former  
60 employee of the Legislature on a per diem basis, in addition to  
61 the salary he or she may be entitled to as an office holder or as  
62 a per diem reemployed former employee of the Legislature; or

63 (2) Suspend the payment of his or her annuity and become  
64 a contributing member of the retirement system as provided in  
65 subsection (c) of this section. Notwithstanding the provisions of  
66 this subsection, a member who is participating in the system as  
67 an elected public official may not retire from his or her elected  
68 position and commence to receive an annuity from the system  
69 and then be elected or reappointed to the same position unless  
70 and until a continuous twelve-month period has passed since his  
71 or her retirement from the position: *Provided*, That a former  
72 employee of the Legislature may not be reemployed by the  
73 Legislature on a per diem basis until at least sixty days after the

74 employee has retired: *Provided, however,* That the limitation on  
75 compensation provided by subsection (c) of this section does not  
76 apply to the reemployed former employee: *Provided further,*  
77 That in no event may reemployment by the Legislature of a per  
78 diem employee exceed one hundred seventy-five days per  
79 calendar year.

80 (e) A member who is participating in the system  
81 simultaneously as both a regular, full-time employee of a  
82 participating public employer and as an elected or appointed  
83 member of the legislative body of the state or any political  
84 subdivision may, upon meeting the age and service requirements  
85 of this article, elect to retire from his or her regular full-time  
86 state employment and may commence to receive an annuity from  
87 the system without terminating his or her position as a member  
88 of the legislative body of the state or political subdivision:  
89 *Provided,* That the retired member shall not, during the term of  
90 his or her retirement and continued service as a member of the  
91 legislative body of a political subdivision, be eligible to continue  
92 his or her participation as a contributing member of the system  
93 and shall not continue to accrue any additional service credit or  
94 benefits in the system related to the continued service.

95 (f) Notwithstanding the provisions of section twenty-seven-b  
96 of this article, any publicly elected member of the legislative  
97 body of any political subdivision or of the State Legislature, the  
98 Clerk of the House of Delegates and the Clerk of the Senate may  
99 elect to commence receiving in-service retirement distributions  
100 from this system upon attaining the age of seventy and one-half  
101 years: *Provided,* That the member is eligible to retire under the  
102 provisions of section twenty or twenty-one of this article:  
103 *Provided, however,* That the member elects to stop actively  
104 contributing to the system while receiving the in-service  
105 distributions.

106 (g) The provisions of section twenty-two-h of this article are  
107 not applicable to the amendments made to this section during the  
108 2006 Regular Session.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
*Governor*





