

1 **H. B. 4365**

2
3 (By Delegates Pethtel, Jones, Canterbury,
4 Kump, Craig, Lynch and Ellem)

5 (Requested by the Consolidated Public Retirement Board)

6 [Introduced January 28, 2014; referred to the
7 Committee on Pensions & Retirement then Finance.]

**FISCAL
NOTE**

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9
10 A BILL to amend and reenact §18-7A-14, §18-7A-17, §18-7A-18 and
11 §18-7A-18a of the Code of West Virginia, 1931, as amended, all
12 relating to employer remittance and reporting of Teachers
13 Retirement System member contributions to the retirement
14 board; providing procedure for contributions by members and
15 employers; requiring payment of compounded interest by members
16 of the Public Employees Retirement System when granting
17 service credit in the Teachers Retirement System; closing the
18 Teachers Employers Contribution Collection Account on or
19 before June 30, 2014 and transferring any balance of employer
20 contributions to the Teachers Retirement System Fund;
21 depositing employer contributions through state appropriations
22 to the Teachers Retirement System Fund beginning July 1, 2014;
23 and directing additional funds from the Employers Contribution

1 Collection Account to the Teachers Retirement System Fund.

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

3 That §18-7A-14, §18-7A-17, §18-7A-18 and §18-7A-18a of the
4 Code of West Virginia, 1931, as amended, be amended and reenacted,
5 all to read as follows:

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

7 **§18-7A-14. Contributions by members; contributions by employers;**
8 **~~correction of errors; forfeitures.~~**

9 (a) At the end of each month every member of the retirement
10 system shall contribute six percent of that member's monthly gross
11 salary to the retirement board: *Provided*, That any member employed
12 by a state institution of higher education shall contribute on the
13 member's full earnable compensation, unless otherwise provided in
14 section fourteen-a of this article. The sums are due the State
15 Teachers Retirement System at the end of each calendar month ~~in~~
16 ~~arrears~~ and shall be paid not later than fifteen days following the
17 end of the calendar month. Each remittance shall be accompanied by
18 a detailed summary of the sums withheld from the gross compensation
19 of each member for that month on forms, either paper or electronic,
20 provided by the State Teachers Retirement System for that purpose.

21 (b) Annually, the contributions of each member shall be
22 credited to the member's account in the State Teachers Retirement
23 System Fund. The contributions shall be deducted from the gross

1 salaries of the members as prescribed in this section and every
2 member shall be considered to have given consent to the deductions.
3 No deductions, however, shall be made from the earnable
4 compensation of any member who retired because of age or service
5 and then resumed service unless as provided in section thirteen-a
6 of this article.

7 (c) The aggregate of employer contributions, due and payable
8 under this article, shall equal annually the total deductions from
9 the gross salary of members required by this section. Beginning
10 July 1, 1994, the rate shall be seven and one-half percent;
11 beginning on July 1, 1995, the rate shall be nine percent;
12 beginning on July 1, 1996, the rate shall be ten and one-half
13 percent; beginning on July 1, 1997, the rate shall be twelve
14 percent; beginning on July 1, 1998, the rate shall be thirteen and
15 one-half percent; and beginning on July 1, 1999, and thereafter,
16 the rate shall be fifteen percent: *Provided*, That the rate shall
17 be seven and one-half percent for any individual who becomes a
18 member of the State Teachers Retirement System for the first time
19 on or after July 1, 2005, or any individual who becomes a member of
20 the State Teachers Retirement System as a result of the voluntary
21 transfer contemplated in article seven-d of this chapter.

22 (d) Payment by an employer to a member of the sum specified in
23 the employment contract minus the amount of the employee's

1 deductions shall be considered to be a full discharge of the
2 employer's contractual obligation as to earnable compensation.

3 (e) Each ~~contributor~~ employer shall file with the retirement
4 board ~~or with the employer to be forwarded to the retirement board~~
5 ~~an~~ a completed enrollment form showing the contributor's date of
6 birth and other data needed by the retirement board.

7 (f) Notwithstanding any other provisions of this article,
8 forfeitures under the retirement system shall not be applied to
9 increase the benefits any member would otherwise receive under the
10 retirement system.

11 **§18-7A-17. Statement and computation of teachers' service;**
12 **qualified military service.**

13 (a) Under rules adopted by the retirement board, each teacher
14 and nonteaching member shall file a detailed statement of his or
15 her length of service as a teacher or nonteacher for which he or
16 she claims credit. The retirement board shall determine what part
17 of a year is the equivalent of a year of service. In computing the
18 service, however, it shall credit no period of more than a month's
19 duration during which a member was absent without pay, nor shall it
20 credit for more than one year of service performed in any calendar
21 year.

22 (b) For the purpose of this article, the retirement board
23 shall grant prior service credit to members of the retirement

1 system who were honorably discharged from active duty service in
2 any of the Armed Forces of the United States in any period of
3 national emergency within which a federal Selective Service Act was
4 in effect. For purposes of this section, "Armed Forces" includes
5 Women's Army Corps, women's appointed volunteers for emergency
6 service, Army Nurse Corps, SPARS, Women's Reserve and other similar
7 units officially parts of the military service of the United
8 States. The military service is considered equivalent to public
9 school teaching, and the salary equivalent for each year of that
10 service is the actual salary of the member as a teacher for his or
11 her first year of teaching after discharge from military service.
12 Prior service credit for military service shall not exceed ten
13 years for any one member, nor shall it exceed twenty-five percent
14 of total service at the time of retirement. Notwithstanding the
15 preceding provisions of this subsection, contributions, benefits
16 and service credit with respect to qualified military service shall
17 be provided in accordance with Section 414(u) of the Internal
18 Revenue Code. For purposes of this section, "qualified military
19 service" has the same meaning as in Section 414(u) of the Internal
20 Revenue Code. The retirement board is authorized to determine all
21 questions and make all decisions relating to this section and,
22 pursuant to the authority granted to the retirement board in
23 section one, article ten-d, chapter five of this code, may

1 promulgate rules relating to contributions, benefits and service
2 credit to comply with Section 414(u) of the Internal Revenue Code.
3 No military service credit may be used in more than one retirement
4 system administered by the Consolidated Public Retirement Board.

5 (c) For service as a teacher in the employment of the federal
6 government, or a state or territory of the United States, or a
7 governmental subdivision of that state or territory, the retirement
8 board shall grant credit to the member: *Provided*, That the member
9 shall pay to the system twelve percent of that member's gross
10 salary earned during the first full year of current employment
11 whether a member of the Teachers' Retirement System or the
12 Teachers' Defined Contribution Retirement System, times the number
13 of years for which credit is granted, plus interest at a rate to be
14 determined by the retirement board. The interest shall be deposited
15 in the reserve fund and service credit granted at the time of
16 retirement shall not exceed the lesser of ten years or fifty
17 percent of the member's total service as a teacher in West
18 Virginia. Any purchase of out-of-state service, as provided in this
19 article, shall not be used to establish eligibility for a
20 retirement allowance and the retirement board shall grant credit
21 for the purchased service as additional service only: *Provided*,
22 *however*, That a purchase of out-of-state service is prohibited if
23 the service is used to obtain a retirement benefit from another

1 retirement system: *Provided further*, That salaries paid to members
2 for service prior to entrance into the retirement system shall not
3 be used to compute the average final salary of the member under the
4 retirement system.

5 (d) No members shall be considered absent from service while
6 serving as a member or employee of the Legislature of the State of
7 West Virginia during any duly constituted session of that body or
8 while serving as an elected member of a county commission during
9 any duly constituted session of that body.

10 (e) No member shall be considered absent from service as a
11 teacher or nonteacher while serving as an officer with a statewide
12 professional teaching association, or who has served in that
13 capacity, and no retirant, who served in that capacity while a
14 member, shall be considered to have been absent from service as a
15 teacher by reason of that service: *Provided*, That the period of
16 service credit granted for that service shall not exceed ten years:
17 *Provided, however*, That a member or retirant who is serving or has
18 served as an officer of a statewide professional teaching
19 association shall make deposits to the Teachers Retirement System,
20 for the time of any absence, in an amount double the amount which
21 he or she would have contributed in his or her regular assignment
22 for a like period of time.

23 (f) The Teachers Retirement System shall grant service credit

1 to any former or present member of the West Virginia Public
2 Employees Retirement System who has been a contributing member of
3 the Teachers Retirement System for more than three years, for
4 service previously credited by the Public Employees Retirement
5 System upon his or her written request and: (1) Shall require the
6 transfer of the member's Public Employees Retirement System
7 accumulated contributions to the Teachers Retirement System; or (2)
8 shall require a repayment of the amount withdrawn from the Public
9 Employees Retirement System, plus interest at a rate to be
10 determined by the retirement board, compounded annually from the
11 date of withdrawal to the date of payment, any time prior to the
12 member's effective retirement date: *Provided*, That there shall be
13 added by the member to the amounts transferred or repaid under this
14 subsection an amount which shall be sufficient to equal the
15 contributions he or she would have made had the member been under
16 the Teachers Retirement System during the period of his or her
17 membership in the Public Employees Retirement System, plus interest
18 at a rate determined by the retirement board, compounded annually
19 from the date the additional contribution would have been made had
20 the member been under the Teachers Retirement System to the date of
21 payment. All interest paid or transferred shall be deposited in the
22 reserve fund.

23 (g) For service as a teacher in an elementary or secondary

1 parochial school, located within this state and fully accredited by
2 the West Virginia Department of Education, the retirement board
3 shall grant credit to the member: *Provided*, That the member shall
4 pay to the system twelve percent of that member's gross salary
5 earned during the first full year of current employment whether a
6 member of the Teachers' Retirement System or the Teachers' Defined
7 Contribution Retirement System, times the number of years for which
8 credit is granted, plus interest at a rate to be determined by the
9 retirement board. The interest shall be deposited in the reserve
10 fund and service granted at the time of retirement shall not exceed
11 the lesser of ten years or fifty percent of the member's total
12 service as a teacher in the West Virginia public school system. Any
13 ~~transfer~~ purchase of parochial school service, as provided in this
14 section, may not be used to establish eligibility for a retirement
15 allowance and retirement board shall grant credit for the ~~transfer~~
16 purchase as additional service only: *Provided, however*, That a
17 ~~transfer~~ purchase of parochial school service is prohibited if the
18 service is used to obtain a retirement benefit from another
19 retirement system.

20 (h) Active members who previously worked in CETA
21 (Comprehensive Employment and Training Act) may receive service
22 credit for time served in that capacity: *Provided*, That in order to
23 receive service credit under the provisions of this subsection the

1 following conditions must be met: (1) The member must have moved
2 from temporary employment with the participating employer to
3 permanent full-time employment with the participating employer
4 within one hundred twenty days following the termination of the
5 member's CETA employment; (2) the retirement board must receive
6 evidence that establishes to a reasonable degree of certainty as
7 determined by the retirement board that the member previously
8 worked in CETA; and (3) the member shall pay to the retirement
9 board an amount equal to the employer and employee contribution
10 plus interest at the amount set by the retirement board for the
11 amount of service credit sought pursuant to this subsection:
12 *Provided, however,* That the maximum service credit that may be
13 obtained under the provisions of this subsection is two years:
14 *Provided further,* That a member must apply and pay for the service
15 credit allowed under this subsection and provide all necessary
16 documentation by March 31, 2003: *And provided further,* That the
17 retirement board shall exercise due diligence to notify affected
18 employees of the provisions of this subsection.

19 (i) If a member is not eligible for prior service credit or
20 pension as provided in this article, then his or her prior service
21 shall not be considered a part of his or her total service.

22 (j) A member who withdrew from membership may regain his or
23 her former membership rights as specified in section thirteen of

1 this article only in case he or she has served two years since his
2 or her last withdrawal.

3 (k) Subject to the provisions of subsections (a) through (l),
4 inclusive, of this section, the retirement board shall verify as
5 soon as practicable the statements of service submitted. The
6 retirement board shall issue prior service certificates to all
7 persons eligible for the certificates under the provisions of this
8 article. The certificates shall state the length of the prior
9 service credit, but in no case shall the prior service credit
10 exceed forty years.

11 (l) Notwithstanding any provision of this article to the
12 contrary, when a member is or has been elected to serve as a member
13 of the Legislature, and the proper discharge of his or her duties
14 of public office require that member to be absent from his or her
15 teaching or administrative duties, the time served in discharge of
16 his or her duties of the legislative office are credited as time
17 served for purposes of computing service credit: *Provided*, That the
18 retirement board may not require any additional contributions from
19 that member in order for the retirement board to credit him or her
20 with the contributing service credit earned while discharging
21 official legislative duties: *Provided, however*, That nothing in
22 this section may be construed to relieve the employer from making
23 the employer contribution at the member's regular salary rate or

1 rate of pay from that employer on the contributing service credit
2 earned while the member is discharging his or her official
3 legislative duties. These employer payments shall commence as of
4 June 1,2000: *Provided further,* That any member to which the
5 provisions of this subsection apply may elect to pay to the
6 retirement board an amount equal to what his or her contribution
7 would have been for those periods of time he or she was serving in
8 the Legislature. The periods of time upon which the member paid his
9 or her contribution shall then be included for purposes of
10 determining his or her final average salary as well as for
11 determining years of service: *And provided further,* That a member
12 using the provisions of this subsection is not required to pay
13 interest on any contributions he or she may decide to make.

14 (m) The Teachers Retirement System shall grant service credit
15 to any former member of the State Police Death, Disability and
16 Retirement System who has been a contributing member for more than
17 three years, for service previously credited by the State Police
18 Death, Disability and Retirement System; and: (1) Shall require the
19 transfer of the member's contributions to the Teachers Retirement
20 System; or (2) shall require a repayment of the amount withdrawn
21 any time prior to the member's retirement: *Provided,* That the
22 member shall add to the amounts transferred or repaid under this
23 paragraph an amount which is sufficient to equal the contributions

1 he or she would have made had the member been under the Teachers
2 Retirement System during the period of his or her membership in the
3 State Police Death, Disability and Retirement System plus interest
4 at a rate to be determined by the retirement board compounded
5 annually from the date of withdrawal to the date of payment. The
6 interest paid shall be deposited in the reserve fund.

7 **~~§18-7A-18. Teachers Employers Contribution Collection Account;~~**
8 **Teachers Retirement System Fund; transfers.**

9 (a) There is hereby created in the State Treasury a special
10 revenue account designated the "Teachers Employers Contribution
11 Collection Account" to be administered by the Consolidated Public
12 Retirement Board. The Teachers Employers Contribution Collection
13 Account shall be an interest-bearing account with interest credited
14 to and deposited in the account and transferred in accordance with
15 the provisions of this section: Provided, That on or before June
16 30, 2014, the Consolidated Public Retirement Board shall close the
17 Teachers Employers Contribution Collection Account and transfer any
18 balance in the Teachers Employers Contribution Collection Account
19 to the Teachers Retirement System Fund. After the Teachers
20 Employers Contribution Collection Account is closed, any amounts
21 required to be transferred or remitted to the Teachers Employers
22 Contribution Collection Account shall be transferred or remitted to
23 the Teachers Retirement System Fund.

1 ~~(b) There shall be deposited into the Teachers Employers~~
2 ~~Contribution Collection Account the following:~~

3 ~~(1) Contributions of employers, through state appropriations,~~
4 ~~and such amounts shall be included in the budget bill submitted~~
5 ~~annually by the Governor;~~

6 ~~(2) Beginning on the first day of July, two thousand five,~~
7 ~~contributions from each county in an amount equal to fifteen~~
8 ~~percent of all salary paid in excess of that authorized for minimum~~
9 ~~salaries in sections two and eight-a, article four, chapter~~
10 ~~eighteen-a of this code and any salary equity authorized in section~~
11 ~~five of said article or any county supplement equal to the amount~~
12 ~~distributed for salary equity among the counties for each~~
13 ~~individual who was a member of the Teachers' Retirement System~~
14 ~~before the first day of July, two thousand five: Provided, That the~~
15 ~~rate shall be seven and one-half percent for any individual who~~
16 ~~becomes a member of the Teachers Retirement System for the first~~
17 ~~time on or after the first day of July, two-thousand five or any~~
18 ~~individual who becomes a member of the Teachers' Retirement System~~
19 ~~as a result of the transfer contemplated in article seven-d of this~~
20 ~~chapter;~~

21 ~~(3) The amounts transferred pursuant to section eighteen-a of~~
22 ~~this article; and~~

23 ~~(4) Any other moneys, available and not otherwise expended,~~

1 ~~which may be appropriated or transferred to this account.~~

2 ~~(c) Moneys on deposit in the Teacher Employers Contribution~~
3 ~~Collection Account shall be transferred monthly in the following~~
4 ~~order:~~

5 ~~(1) To the Teachers' Retirement System Fund the amount~~
6 ~~certified by the Consolidated Public Retirement Board as the~~
7 ~~actuarially required contribution; and~~

8 ~~(2) The balance, if any, to the Employee Pension and Health~~
9 ~~Care Benefits Fund established under section thirty-nine, article~~
10 ~~seven-a of this chapter.~~

11 ~~(d)~~ (b) There is hereby continued in the State Treasury a
12 separate irrevocable trust designated the Teachers Retirement
13 System Fund. The Teachers Retirement System Fund shall be invested
14 as provided in section nine-a, article six, chapter twelve of this
15 code.

16 ~~(e)~~ (c) Beginning July 1, 2014, there shall be deposited into
17 the Teachers Retirement System Fund, the following:

18 (1) ~~Moneys transferred from the Teachers Employers~~
19 ~~Contribution Collection Account~~ Contributions of employers, through
20 state appropriations, and the amounts shall be included in the
21 budget bill submitted annually by the Governor;

22 (2) Beginning on July 1, 2005, contributions from each county
23 in an amount equal to fifteen percent of all salary paid in excess

1 of that authorized for minimum salaries in sections two and
2 eight-a, article four, chapter eighteen-a of this code and any
3 salary equity authorized in section five of said article or any
4 county supplement equal to the amount distributed for salary equity
5 among the counties for each individual who was a member of the
6 Teachers Retirement System before July 1, 2005: *Provided*, That the
7 rate shall be seven and one-half percent for any individual who
8 becomes a member of the Teachers Retirement System for the first
9 time on or after July 1, 2005 or any individual who becomes a
10 member of the Teachers Retirement System as a result of the
11 transfer contemplated in article seven-d of this chapter;

12 ~~(2)~~ (3) Member contributions provided ~~for~~ in section fifteen
13 of this article;

14 ~~(3)~~ (4) Gifts and bequests to the fund and any accretions and
15 accumulations which may properly be paid into and become a part of
16 the fund;

17 ~~(4)~~ (5) Specific appropriations to the fund made by the
18 Legislature;

19 ~~(5)~~ (6) Interest on the investment of any part or parts of the
20 fund; and

21 ~~(6)~~ (7) Any other moneys, available and not otherwise
22 expended, which may be appropriated or transferred to the Teachers
23 Retirement System or the Fund.

1 forfeited in the prior fiscal year and subsequently used by the
2 contributing employers to reduce their total aggregate contribution
3 requirements pursuant to section seventeen, article seven-b of this
4 chapter.

5 ~~(b)~~ (c) The additional allocation provided in this section
6 represents a funding method by which a part of a rational
7 amortization plan will be established to amortize the current
8 unfunded liability of the Teachers Retirement System created by
9 this article. The additional allocations are not and shall not be
10 construed to be moneys which are owed to, nor earned by any
11 employee.

NOTE: The purpose of this bill is to clarify when TRS member contributions should be remitted and how TRS employers should report member contributions; to specify that PERS members transferring service to TRS shall pay compounded interest on the additional employee contribution owed TRS; to close the Teachers Employers Contribution Collection Account and transfer any balance to the Teachers Retirement System Fund; and to make technical corrections throughout.

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