

# Senate Bill No. 452

(By Senators Kirkendoll, Cann, Edgell, Carmichael and Plymale)

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[Introduced January 30, 2014; referred to the Committee on Pensions; and then to the Committee on Finance.]

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A BILL to amend and reenact §5-13-2 and §5-13-4 of the Code of West Virginia, 1931, as amended, all relating to the Teachers Retirement System annuity calculation for reciprocal service credit; defining “teacher final average salary”; and providing procedure for annuity calculation for reciprocal service.

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

That §5-13-2 and §5-13-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 13. PUBLIC EMPLOYEES’ AND TEACHERS’  
RECIPROCAL SERVICE CREDIT ACT.**

**§5-13-2. Definitions.**

1 The following words and phrases as used in this article,  
2 unless a different meaning is clearly indicated by the context,  
3 shall have the following meanings:

4 ~~(a) "State system" means the West Virginia Public~~  
5 ~~Employees Retirement System and the state teachers'~~  
6 ~~retirement system.~~

7 ~~(b) "Public system" means the West Virginia Public~~  
8 ~~Employees Retirement System.~~

9 ~~(c) "Teacher system" means the state teachers' retirement~~  
10 ~~system.~~

11 ~~(d) "Member" means a member of either the West~~  
12 ~~Virginia Public Employees Retirement System or the state~~  
13 ~~teachers' retirement system. The term "member" shall not~~  
14 ~~include any person who has retired under either state system.~~

15 ~~(e) "Accumulated contributions" means the sum of the~~  
16 ~~amounts deducted from the compensations of a member and~~  
17 ~~credited to his individual account in a state system, together~~  
18 ~~with interest, if any, credited thereto.~~

19       ~~(f) “Public final average salary” means a member’s final~~  
20 ~~average salary computed according to the law governing the~~  
21 ~~public system. In computing his public final average salary,~~  
22 ~~the compensations, if any, received by him for services~~  
23 ~~rendered in positions covered by the teacher system shall be~~  
24 ~~used in the same manner as if the compensations were~~  
25 ~~received for services covered by the public system.~~

26       ~~(g) “Teacher average salary” means a member’s average~~  
27 ~~salary computed according to the law governing the teacher~~  
28 ~~system. In computing his teacher average salary, the~~  
29 ~~compensations, if any, received by him for services rendered~~  
30 ~~in positions covered by the public system shall be used in the~~  
31 ~~same manner as if the compensations were received for~~  
32 ~~services covered by the teacher system.~~

33       ~~(h) “Reciprocal service credit” for a member of the public~~  
34 ~~system who subsequently becomes a member of the teacher~~  
35 ~~system, or vice versa, means the sum of his credited service~~  
36 ~~in force acquired as a member of the public system and his~~  
37 ~~credit service in force acquired as a member of the teacher~~  
38 ~~system.~~

39 (i) ~~“Annuity” means the annuity payable by a state~~  
40 ~~system.~~

41 (a) “Accumulated contributions” means the sum of the  
42 amounts deducted from the compensation of a member and  
43 credited to his or her individual account in a state system,  
44 together with interest, if any, credited thereto.

45 (b) “Annuity” means the annuity payable by a state  
46 system.

47 (c) “Member” means a member of either the West  
48 Virginia Public Employees Retirement System or the State  
49 Teachers Retirement System. The term “member” does not  
50 include any person who has retired under either state system.

51 (d) “Public final average salary” means a member’s final  
52 average salary computed according to the law governing the  
53 public system. In computing his or her public final average  
54 salary, the compensation, if any, received by the member for  
55 services rendered in positions covered by the teacher system  
56 shall be used in the same manner as if the compensation were  
57 received for services covered by the public system.

58       (e) “Public system” means the West Virginia Public  
59 Employees Retirement System established in article ten,  
60 chapter five of this code.

61       (f) “Reciprocal service credit” for a member of the public  
62 system who subsequently becomes a member of the teacher  
63 system, or vice versa, means the sum of his or her credited  
64 service in force acquired as a member of the public system  
65 and his or her credited service in force acquired as a member  
66 of the teacher system.

67       (g) “State system” means the West Virginia Public  
68 Employees Retirement System and the State Teachers  
69 Retirement System.

70       (h) “Teacher final average salary” means a member’s  
71 final average salary computed according to the law governing  
72 the teacher system. In computing his or her teacher final  
73 average salary, the compensation, if any, received by the  
74 member for services rendered in positions covered by the  
75 public system shall be used in the same manner as if the  
76 compensation were received for services covered by the  
77 teacher system.

78       (i) “Teacher system” means the State Teachers  
79 Retirement System established in article seven-a, chapter  
80 eighteen of this code.

81       (j) The masculine gender includes the feminine, and  
82 words of the singular number with respect to persons include  
83 the plural number, and vice versa.

**§5-13-4. Reciprocal service.**

1       In the event a member leaves a position covered by the  
2 public system and within five years thereafter becomes  
3 employed in a position covered by the teacher system, or a  
4 member leaves the position covered by the teacher system  
5 and within five years thereafter becomes employed in a  
6 position covered by the public system, in either case, the  
7 following provisions shall apply. ~~together with such rules and~~  
8 ~~regulations as the board of trustees of the public system and~~  
9 ~~the retirement board of the teacher system shall from time to~~  
10 ~~time mutually agree upon.~~

11       (a) A member’s reciprocal service credit in force shall be  
12 used to satisfy the service requirements for retirement under  
13 the state system from which he or she retires.

14 (b) If a member, who has reciprocal service credit in  
15 force, retires under the public system, he or she shall receive  
16 an annuity payable by the public system and an annuity  
17 payable by the teacher system. His or her public system  
18 annuity shall be based upon: (1) The portion of his or her  
19 reciprocal service credit acquired as a member of the public  
20 system; and (2) his or her public final average salary. His ~~The~~  
21 member's teacher system annuity shall be based upon: (1)  
22 The portion of his or her reciprocal service credit acquired as  
23 a member of the teacher system; and (2) his or her teachers'  
24 ~~retirement allowance~~ final average salary as provided by the  
25 teachers retirement act. His or her teacher system annuity  
26 shall begin as of the date he or she retires under the public  
27 system, but in no case prior to the date ~~he~~ the member would  
28 have been eligible to retire under the teacher system if all his  
29 or her reciprocal service credit had been acquired as a  
30 member of the teacher system.

31 (c) If a member, who has reciprocal service credit in  
32 force, retires under the teacher system, he or she shall receive

33 an annuity payable by the teacher system and an annuity  
34 payable by the public system. ~~His~~ The member's teacher  
35 system annuity shall be based upon: (1) The portion of his or  
36 her reciprocal service credit acquired as a member of the  
37 teacher system; and (2) his or her teachers' ~~retirement~~  
38 ~~allowance~~ final average salary as provided by the teachers  
39 retirement act. His or her public system annuity shall be  
40 based upon: (1) The portion of ~~his~~ the reciprocal service  
41 credit acquired as a member of the public system; and (2) his  
42 or her public final average salary. His or her public system  
43 annuity shall begin as of the date he or she retired under the  
44 teacher system, but in no case prior to the date he or she  
45 would have been eligible to retire under the public system if  
46 all his or her reciprocal service credit had been acquired as a  
47 member of the public system.

48 ~~The provisions of this section, as amended, shall be~~  
49 ~~retroactive to June eleventh, one thousand nine hundred~~  
50 ~~sixty-five.~~

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(NOTE: The purpose of this bill is to clarify that the TRS annuity calculation for a member with reciprocal service credit shall be based on the final average salary calculation as provided by TRS; to alphabetize the definitions section; 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.)