

COMMITTEE SUBSTITUTE

FOR

**H. B. 2505**

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(BY DELEGATE(S) CANTERBURY, PETHTEL, FOLK, WALTERS,  
HAMILTON, MARCUM, KURCABA AND HICKS)

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(Originating in the House Committee on Finance)

[February 18, 2015]

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A BILL to amend and reenact §5-10-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-5 of said code; to amend and reenact §8-22A-6 of said code; to amend and reenact §15-2A-3 of said code; to amend and reenact §16-5V-6 of said code; and to amend and reenact §18-7A-13 of said code, all relating to retirement system participation; clarifying that police officers and firefighters hired after a certain date are members of the West Virginia Municipal Police and Firefighters Retirement

System; clarifying that members first employed in covered employment in the West Virginia Deputy Sheriffs Retirement System, West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia Emergency Medical Services Retirement System shall participate in only one retirement system administered by the Consolidated Public Retirement Board in which the member has the earliest date of hire; and specifying that members of the Public Employees Retirement System, the State Police Retirement System and the Teachers' Retirement System who are employed in an additional job that requires membership in the West Virginia Deputy Sheriff Retirement System, the West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia Emergency Medical Services Retirement System shall abide by the concurrent employment provisions of said system and participate in only one system administered by the Consolidated Public Retirement Board.

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

That §5-10-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §7-14D-5 of said code be amended and

reenacted; that §8-22A-6 of said code be amended and reenacted; that §15-2A-3 of said code be amended and reenacted; that §16-5V-6 of said code be amended and reenacted; and that §18-7A-13 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.**

**§5-10-17. Retirement system membership.**

1 The membership of the retirement system consists of the  
2 following persons:

3 (a) All employees, as defined in section two of this article,  
4 who are in the employ of a political subdivision the day  
5 preceding the date it becomes a participating public employer  
6 and who continue in the employ of the participating public  
7 employer on and after that date shall become members of the  
8 retirement system; and all persons who become employees of a  
9 participating public employer on or after that date shall  
10 thereupon become members of the system; except as provided in  
11 subdivisions (b), ~~and~~ (c) and (d) of this section.

12 (b) The membership of the Public Employees Retirement  
13 System shall not include any person who is an active  
14 contributing member of, or who has been retired by, any of the  
15 state Teachers retirement systems, the Judges Retirement  
16 System, any Retirement System of the West Virginia State  
17 Police, the Deputy Sheriff Retirement System or any municipal  
18 retirement system for either, or both, police or firefighter; and  
19 the Bureau of Employment Programs, by the Commissioner of  
20 the Bureau, may elect whether its employees will accept  
21 coverage under this article or be covered under the authorization  
22 of a separate enactment: *Provided*, That the exclusions of  
23 membership do not apply to any member of the State  
24 Legislature, the Clerk of the House of Delegates, the Clerk of the  
25 State Senate or to any member of the legislative body of any  
26 political subdivision provided he or she once becomes a  
27 contributing member of the retirement system: *Provided*,  
28 *however*, That any retired member of the State Police Death,  
29 Disability and Retirement Fund, the West Virginia State Police  
30 Retirement System, the Deputy Sheriff Retirement System and  
31 any retired member of any municipal retirement system for

32 either, or both, police or firefighter may on and after the  
33 effective date of this section become a member of the retirement  
34 system as provided in this article, without receiving credit for  
35 prior service as a municipal police officer or firefighter or as a  
36 member of the State Police Death, Disability and Retirement  
37 Fund, the West Virginia State Police Retirement System or the  
38 Deputy Sheriff Retirement System: *Provided further*, That any  
39 retired member of the State Police Death, Disability and  
40 Retirement Fund, the West Virginia State Police Retirement  
41 System, the Deputy Sheriff Retirement System and any retired  
42 member of any municipal retirement system for either, or both,  
43 police or firefighters, who begins participation in the retirement  
44 system established in this article on or after July 1, 2005, may  
45 not receive a combined retirement benefit in excess of one  
46 hundred five percent of the member's highest annual salary  
47 earned while either a member of the retirement system  
48 established in this article or while a member of the other  
49 retirement system or systems from which he or she previously  
50 retired when adding the retirement benefit from the retirement  
51 system created in this article to the retirement benefit received

52 by that member from the other retirement system or systems set  
53 forth herein from which he or she previously retired: *And*  
54 *provided further*, That the membership of the retirement system  
55 does not include any person who becomes employed by the  
56 Pretera Center for Mental Health Services, Valley  
57 Comprehensive Mental Health Center, Westbrook Health  
58 Services or Eastern Panhandle Mental Health Center on or after  
59 July 1, 1997, *And provided further*, That membership of the  
60 retirement system does not include any person who becomes a  
61 member of the federal Railroad Retirement Act on or after July  
62 1, 2000.

63 (c) Any member of the State Legislature, the Clerk of the  
64 House of Delegates, the Clerk of the State Senate and any  
65 employee of the State Legislature whose employment is  
66 otherwise classified as temporary and who is employed to  
67 perform services required by the Legislature for its regular  
68 sessions or during the interim between regular sessions and who  
69 has been or is employed during regular sessions or during the  
70 interim between sessions in seven consecutive calendar years, as  
71 certified by the Clerk of the House in which the employee

72 served, or any member of the legislative body of any other  
73 political subdivision shall become a member of the retirement  
74 system provided he or she notifies the retirement system in  
75 writing of his or her intention to be a member of the system and  
76 files a membership enrollment form as prescribed by the Board  
77 of Trustees, and each person, upon filing his or her written notice  
78 to participate in the retirement system, shall by that act authorize  
79 the Clerk of the House of Delegates or the Clerk of the State  
80 Senate or such person or legislative agency as the legislative  
81 body of any other political subdivision shall designate to deduct  
82 the member's contribution, as provided in subsection (b), section  
83 twenty-nine of this article, and after the deductions have been  
84 made from the member's compensation, the deductions shall be  
85 forwarded to the retirement system.

86 (d) Any employee, as defined in section two of this article,  
87 who has concurrent employment in an additional job or jobs  
88 which would require the employee to be a member of the West  
89 Virginia Deputy Sheriff Retirement System, the West Virginia  
90 Municipal Police Officers and Firefighters Retirement System or  
91 the West Virginia Emergency Medical Services Retirement

92 System shall abide by the concurrent employment statutory  
93 provisions of said retirement system and shall participate in only  
94 one retirement system administered by the board.

95       ~~(d)~~ (e) If question arises regarding the membership status of  
96 any employee, the Board of Trustees has the final power to  
97 decide the question.

98       ~~(e)~~ (f) Any individual who is a leased employee is not  
99 eligible to participate in the system. For the purposes of this  
100 article, the term “leased employee” means any individual who  
101 performs services as an independent contractor or pursuant to an  
102 agreement with an employee leasing organization or other  
103 similar organization. If a question arises regarding the status of  
104 an individual as a leased employee, the board has final authority  
105 to decide the question.

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.**

#### **§7-14D-5. Members.**

1       (a) Any deputy sheriff first employed by a county in covered  
2 employment after the effective date of this article shall be a  
3 member of this retirement system and does not qualify for



4 membership in any other retirement system administered by the  
5 board, so long as he or she remains employed in covered  
6 employment: Provided, That any deputy sheriff who has  
7 concurrent employment in an additional job or jobs which would  
8 require the deputy sheriff to be a member of the West Virginia  
9 Municipal Police Officers and Firefighters Retirement System or  
10 the West Virginia Emergency Medical Services Retirement  
11 System shall participate in only one retirement system  
12 administered by the board, and the retirement system applicable  
13 to the concurrent employment for which the employee has the  
14 earliest date of hire shall prevail. The membership of any person  
15 in the plan ceases: (1) Upon the withdrawal of accumulated  
16 contributions after the cessation of service; (2) upon retirement;  
17 (3) at death; or (4) upon the date, if any, when after the cessation  
18 of service, the outstanding balance of any loan obtained by the  
19 member pursuant to section twenty-three of the article, plus  
20 accrued interest, equals or exceeds the accumulated  
21 contributions of the member.

22 (b) Any deputy sheriff employed in covered employment on  
23 the effective date of this article shall within six months of that

24 effective date notify in writing both the county commission in  
25 the county in which he or she is employed and the board, of his  
26 or her desire to become a member of the plan: *Provided*, That  
27 this time period is extended to January 30, 1999, in accordance  
28 with the decision of the Supreme Court of Appeals in *West*  
29 *Virginia Deputy Sheriffs' Association, et al v. James L. Sims, et*  
30 *al*, No. 25212: *Provided, however*, That any deputy sheriff  
31 employed in covered employment on the effective date of this  
32 article has an additional time period consisting of the ten-day  
33 period following the day after which the amended provisions of  
34 this section become law to notify in writing both the county  
35 commission in the county in which he or she is employed and the  
36 board of his or her desire to become a member of the plan. Any  
37 deputy sheriff who elects to become a member of the plan ceases  
38 to be a member or have any credit for covered employment in  
39 any other retirement system administered by the board and shall  
40 continue to be ineligible for membership in any other retirement  
41 system administered by the board so long as the deputy sheriff  
42 remains employed in covered employment in this plan: *Provided*  
43 *further*, That any deputy sheriff who elects during the time

44 period from July 1, 1998 to January 30, 1999 or who so elects  
45 during the ten-day time period occurring immediately following  
46 the day after the day the amendments made during the 1999  
47 legislative session become law, to transfer from the Public  
48 Employees Retirement System to the plan created in this article  
49 shall contribute to the plan created in this article at the rate set  
50 forth in section seven of this article retroactive to July 1, 1998.  
51 Any deputy sheriff who does not affirmatively elect to become  
52 a member of the plan continues to be eligible for any other  
53 retirement system as is from time to time offered to other county  
54 employees but is ineligible for this plan regardless of any  
55 subsequent termination of employment and rehire.

56 (c) Any deputy sheriff employed in covered employment on  
57 the effective date of this article who has timely elected to  
58 transfer into this plan as provided in subsection (b) of this  
59 section shall be given credited service at the time of transfer for  
60 all credited service then standing to the deputy sheriff's service  
61 credit in the Public Employees Retirement System regardless of  
62 whether the credited service (as that term is defined in section  
63 two, article ten, chapter five of this code) was earned as a deputy

64 sheriff. All the credited service standing to the transferring  
65 deputy sheriff's credit in the Public Employees Retirement Fund  
66 System at the time of transfer into this plan shall be transferred  
67 into the plan created by this article, and the transferring deputy  
68 sheriff shall be given the same credit for the purposes of this  
69 article for all service transferred from the Public Employees  
70 Retirement System as that transferring deputy sheriff would have  
71 received from the Public Employees Retirement System as if the  
72 transfer had not occurred. In connection with each transferring  
73 deputy sheriff receiving credit for prior employment as provided  
74 in this subsection, a transfer from the Public Employees  
75 Retirement System to this plan shall be made pursuant to the  
76 procedures described in section eight of this article: *Provided,*  
77 That a member of this plan who has elected to transfer from the  
78 Public Employees Retirement System into this plan pursuant to  
79 subsection (b) of this section may not, after having transferred  
80 into and become an active member of this plan, reinstate to his  
81 or her credit in this plan any service credit relating to periods of  
82 nondeputy sheriff service which were withdrawn from the Public

83 Employees Retirement System prior to his or her elective  
84 transfer into this plan.

85 (d) Any deputy sheriff who was employed as a deputy sheriff  
86 prior to the effective date of this article, but was not employed  
87 as a deputy sheriff on the effective date of this article, shall  
88 become a member upon rehire as a deputy sheriff. For purposes  
89 of this subsection, the member's years of service and credited  
90 service in the Public Employees Retirement System prior to the  
91 effective date of this article shall not be counted for any purposes  
92 under this plan unless: (1) The deputy sheriff has not received  
93 the return of his or her accumulated contributions in the Public  
94 Employees Retirement System pursuant to section thirty, article  
95 ten, chapter five of this code; or (2) the accumulated  
96 contributions returned to the member from the Public Employees  
97 Retirement System have been repaid pursuant to section thirteen  
98 of this article. If the conditions of subdivision (1) or (2) of this  
99 subsection are met, all years of the deputy sheriff's covered  
100 employment shall be counted as years of service for the purposes  
101 of this article.

102 (e) Once made, the election provided in this section is  
103 irrevocable. All deputy sheriffs first employed after the effective  
104 date and deputy sheriffs electing to become members as  
105 described in this section shall be members as a condition of  
106 employment and shall make the contributions required by  
107 section seven of this article.

108 (f) Notwithstanding any other provisions of this article, any  
109 individual who is a leased employee is not eligible to participate  
110 in the plan. For purposes of this plan, a “leased employee”  
111 means any individual who performs services as an independent  
112 contractor or pursuant to an agreement with an employee leasing  
113 organization or similar organization. If a question arises  
114 regarding the status of an individual as a leased employee, the  
115 board has final power to decide the question.

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.**

#### **§8-22A-6. Members.**

1 (a) A police officer or firefighter ~~first employed~~ hired in  
2 covered employment after the effective date of this article by a

3 municipality or municipal subdivision which has established and  
4 maintained a policemen's pension and relief fund or a firemen's  
5 pension and relief fund pursuant to section sixteen, article  
6 twenty-two of this chapter and which is a participating employer,  
7 shall be a member of this retirement plan: Provided, That any  
8 police officer or firefighter who has concurrent employment in  
9 an additional job or jobs which would require the police officer  
10 or firefighter to be a member of the West Virginia Deputy  
11 Sheriff Retirement System or the West Virginia Emergency  
12 Medical Services Retirement System shall participate in only  
13 one retirement system administered by the board, and the  
14 retirement system applicable to the concurrent employment for  
15 which the employee has the earliest date of hire shall prevail.

16 (b) Except as provided in section thirty-two of this article, a  
17 police officer or firefighter who is a member of the Municipal  
18 Police Officers and Firefighters Retirement System may not  
19 have credit for covered employment in any other retirement  
20 system applied as service credit in the Municipal Police Officers  
21 and Firefighters Retirement System.

22 (c) Notwithstanding any other provisions of this article, any  
23 individual who is a leased employee is not eligible to participate  
24 in the plan. For purposes of this plan, a “leased employee”  
25 means any individual who performs services as an independent  
26 contractor or pursuant to an agreement with an employee leasing  
27 organization or similar organization. If a question arises  
28 regarding the status of an individual as a leased employee, the  
29 board has final power to decide the question.

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

#### **§15-2A-3. Continuation and administration of West Virginia State Police Retirement System; leased employees; federal qualification requirements.**

1 (a) The West Virginia State Police Retirement System is  
2 continued. It is contemplated that substantially all of the  
3 members of the retirement system shall be qualified public  
4 safety employees as defined in section two of this article. Any  
5 West Virginia state trooper employed by the agency on or after  
6 the effective date of this article shall be a member of this  
7 retirement system and may not qualify for membership in any  
8 other retirement system administered by the board so long as he



9 or she remains employed by the State Police: Provided, That any  
10 state trooper who has concurrent employment in an additional  
11 job or jobs which would require the state trooper to be a member  
12 of the West Virginia Deputy Sheriff Retirement System, the  
13 West Virginia Municipal Police Officers and Firefighters  
14 Retirement System or the West Virginia Emergency Medical  
15 Services Retirement System shall abide by the statutory  
16 provisions of said retirement system related to concurrent  
17 employment and participate in only one retirement system  
18 administered by the board.

19 (b) Any individual who is a leased employee shall not be  
20 eligible to participate in the system. For purposes of this system,  
21 a “leased employee” means any individual who performs  
22 services as an independent contractor or pursuant to an  
23 agreement with an employee leasing organization or other  
24 similar organization. If a question arises regarding the status of  
25 an individual as a leased employee, the board has final power to  
26 decide the question.

27 (c) The board created pursuant to article ten-d, chapter five  
28 of this code shall administer the retirement system. The board

29 may sue and be sued, contract and be contracted with and  
30 conduct all the business of the system in the name of the West  
31 Virginia State Police Retirement System.

32 (d) This fund is intended to meet the federal qualification  
33 requirements of Section 401(a) and related sections of the  
34 Internal Revenue Code as applicable to governmental plans.  
35 Notwithstanding any other provision of state law, the board shall  
36 administer the retirement system to fulfill this intent for the  
37 exclusive benefit of the employees, members, retirants and their  
38 beneficiaries. Any provision of this article referencing or relating  
39 to these federal qualification requirements shall be effective as  
40 of the date required by federal law. The board may promulgate  
41 rules and amend or repeal conflicting rules in accordance with  
42 the authority granted to the board pursuant to section one, article  
43 ten-d, chapter five of this code to assure compliance with this  
44 section.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.**

#### **§16-5V-6. Members.**

1 (a) Any emergency medical services officer first employed  
2 by a county or political subdivision in covered employment after  
3 the effective date of this article shall be a member of this  
4 retirement plan as a condition of employment and upon  
5 membership does not qualify for membership in any other  
6 retirement system administered by the board, so long as he or  
7 she remains employed in covered employment: Provided, That  
8 any emergency medical services officer who has concurrent  
9 employment in an additional job or jobs which would require the  
10 emergency medical services officer to be a member of the West  
11 Virginia Deputy Sheriff Retirement System or the West Virginia  
12 Municipal Police Officers and Firefighters Retirement System  
13 shall participate in only one retirement system administered by  
14 the board, and the retirement system applicable to the concurrent  
15 employment for which the employee has the earliest date of hire  
16 shall prevail.

17 (b) Any emergency medical services officer employed in  
18 covered employment by an employer which is currently a  
19 participating public employer of the Public Employees  
20 Retirement System shall notify in writing both the county

21 commission in the county or officials in the political subdivision  
22 in which he or she is employed and the board of his or her desire  
23 to become a member of the plan by December 31, 2007. Any  
24 emergency medical services officer who elects to become a  
25 member of the plan ceases to be a member or have any credit for  
26 covered employment in any other retirement system  
27 administered by the board and shall continue to be ineligible for  
28 membership in any other retirement system administered by the  
29 board so long as the emergency medical services officer remains  
30 employed in covered employment by an employer which is  
31 currently a participating public employer of this plan: *Provided,*  
32 That any emergency medical services officer who does not  
33 affirmatively elect to become a member of the plan continues to  
34 be eligible for any other retirement system as is, from time to  
35 time, offered to other county employees but is ineligible for this  
36 plan regardless of any subsequent termination of employment  
37 and rehire.

38 (c) Any emergency medical services officer who was  
39 employed as an emergency medical services officer prior to the  
40 effective date, but was not employed on the effective date of this

41 article, shall become a member upon rehire as an emergency  
42 medical services officer. For purposes of this section, the  
43 member's years of service and credited service prior to the  
44 effective date shall not be counted for any purposes under this  
45 plan unless the emergency medical services officer has not  
46 received the return of his or her accumulated contributions in the  
47 Public Employees Retirement System pursuant to section thirty,  
48 article ten, chapter five of this code. The member may request in  
49 writing to have his or her accumulated contributions and  
50 employer contributions from covered employment in the Public  
51 Employees Retirement System transferred to the plan. If the  
52 conditions of this subsection are met, all years of the emergency  
53 medical services officer's covered employment shall be counted  
54 as years of service for the purposes of this article.

55 (d) Any emergency medical services officer employed in  
56 covered employment on the effective date of this article who has  
57 timely elected to transfer into this plan as provided in subsection  
58 (b) of this section shall be given credited service at the time of  
59 transfer for all credited service then standing to the emergency  
60 medical services officer's service credit in the Public Employees

61 Retirement System regardless of whether the credited service (as  
62 that term is defined in section two, article ten, chapter five of this  
63 code) was earned as an emergency medical services officer. All  
64 credited service standing to the transferring emergency medical  
65 services officer's credit in the Public Employees Retirement  
66 System at the time of transfer into this plan shall be transferred  
67 into the plan created by this article and the transferring  
68 emergency medical services officer shall be given the same  
69 credit for the purposes of this article for all service transferred  
70 from the Public Employees Retirement System as that  
71 transferring emergency medical services officer would have  
72 received from the Public Employees Retirement System as if the  
73 transfer had not occurred. In connection with each transferring  
74 emergency medical services officer receiving credit for prior  
75 employment as provided in this subsection, a transfer from the  
76 Public Employees Retirement System to this plan shall be made  
77 pursuant to the procedures described in this article: *Provided,*  
78 That any member of this plan who has elected to transfer from  
79 the Public Employees Retirement System into this plan pursuant  
80 to subsection (b) of this section may not, after having transferred

81 into and becoming an active member of this plan, reinstate to his  
82 or her credit in this plan any service credit relating to periods in  
83 which the member was not in covered employment as an  
84 emergency medical services officer and which service was  
85 withdrawn from the Public Employees Retirement System prior  
86 to his or her elective transfer into this plan.

87 (e) Once made, the election made under this section is  
88 irrevocable. All emergency medical services officers employed  
89 by an employer which is a participating public employer of the  
90 Public Employees Retirement System after the effective date and  
91 emergency medical services officers electing to become  
92 members as described in this section shall be members as a  
93 condition of employment and shall make the contributions  
94 required by this article.

95 (f) Notwithstanding any other provisions of this article, any  
96 individual who is a leased employee is not eligible to participate  
97 in the plan. For purposes of this plan, a “leased employee”  
98 means any individual who performs services as an independent  
99 contractor or pursuant to an agreement with an employee leasing  
100 organization or similar organization. If a question arises

101 regarding the status of an individual as a leased employee, the  
102 board has final power to decide the question.

## CHAPTER 18. EDUCATION.

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

#### **§18-7A-13. Membership in retirement system; cessation of membership; reinstatement of withdrawn service.**

1 The membership of the retirement system shall consist of the  
2 following:

3 (a) New entrants, whose membership in the system is  
4 compulsory upon employment as teachers and nonteachers:  
5 Provided, That any teaching member or nonteaching member, as  
6 defined in section three of this article, who has concurrent  
7 employment in an additional job or jobs which would require the  
8 teaching member or nonteaching member to be a member of the  
9 West Virginia Deputy Sheriff Retirement System, the West  
10 Virginia Municipal Police Officers and Firefighters Retirement  
11 System or the West Virginia Emergency Medical Services  
12 Retirement System shall abide by the concurrent employment  
13 statutory provisions of said retirement system and shall



14 participate in only one retirement system administered by the  
15 retirement board.

16 (b) The membership of the retirement system shall not  
17 include any person who is an active member of or who has been  
18 retired by the West Virginia Public Employees Retirement  
19 System, the judge's retirement system, or the retirement system  
20 of the West Virginia State Police or the supplemental retirement  
21 system as provided in section four-a, article twenty-three of this  
22 chapter. The membership of any person in the retirement system  
23 ceases: (1) Upon the withdrawal of accumulated contributions  
24 after the cessation of service; (2) upon effective retirement date;  
25 (3) at death; or (4) upon the date, if any, when after the cessation  
26 of service, the outstanding balance of any loan obtained by the  
27 member pursuant to section thirty-four of this article or section  
28 five, article seven-d of this chapter, plus accrued interest, equals  
29 or exceeds the member's accumulated contributions.

30 (c) Any former member of the retirement system who has  
31 withdrawn accumulated contributions but subsequently reenters  
32 the retirement system may repay to the retirement fund the  
33 amount withdrawn, plus interest at a rate set by the board,

34 compounded annually from the date of withdrawal to the date of  
35 repayment: *Provided*, That no repayment may be made until the  
36 former member has completed two years of contributory service  
37 after reentry; and the member shall be accorded all the rights to  
38 prior service and experience as were held at the time of  
39 withdrawal of the accumulated contributions: *Provided*,  
40 *however*, That no withdrawn service may be reinstated that has  
41 been transferred to another retirement system from which the  
42 member is currently or will in the future draw benefits based on  
43 the same service. The interest paid shall be deposited in the  
44 reserve fund.

45 (d) No member is eligible for prior service credit unless he  
46 or she is eligible for prior service pension, as prescribed by  
47 section twenty-two of this article; however, a new entrant who  
48 becomes a present teacher as provided in this subdivision shall  
49 be considered eligible for prior service pension upon retirement.

50 (e) Any individual who is a leased employee is not eligible  
51 to participate in the system. For purposes of this system, a  
52 "leased employee" means any individual who performs services  
53 as an independent contractor or pursuant to an agreement with an

54 employee leasing organization or other similar organization. If  
55 a question arises regarding the status of an individual as a leased  
56 employee, the board has final power to decide the question.

