

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Originating

Senate Bill 462

BY SENATORS KARNES AND GAUNCH

[Originating in the Committee on Pensions; Reported
on February 1, 2018]

1 A BILL to amend and reenact §5-10-29 and §5-10-32 of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §7-14D-7 of said code; to amend and reenact §8-22A-8
3 of said code; to amend and reenact §15-2-26 of said code; to amend and reenact §15-2A-
4 5 of said code; to amend and reenact §16-5V-8 of said code; to amend and reenact §18-
5 7A-14; and to amend and reenact §51-9-2 and §51-9-4 of said code, all relating to
6 establishing a pension contribution holiday for plans administered by the Consolidated
7 Public Retirement Board when funding for certain public retirement plans.

Be it enacted by the Legislature of West Virginia:

**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.

§5-10-29. Members' deposit fund; members' contributions; forfeitures.

1 (a) The members' deposit fund is hereby created. It shall be the fund in which shall be
2 accumulated, at regular interest, the contributions deducted from the compensation of members,
3 and from which refunds of accumulated contributions shall be paid and transfers made as
4 provided in this section.

5 (b) The contributions of a member to the retirement system (including any member of the
6 Legislature, except as otherwise provided in §5-10-29(g) of this code) shall be a sum of not less
7 than three and five-tenths percent of his or her annual compensation but not more than four and
8 five-tenths percent of his or her annual compensation, as determined by the board of trustees:

9 *Provided, That for persons who first become members of the retirement system on or after July*
10 *1, 2015, the contributions to the system shall be six percent of his or her annual compensation*

11 beginning July 1, 2015. The said contributions shall be made notwithstanding that the minimum
12 salary or wages provided by law for any member shall be thereby changed. Each member shall
13 be deemed to consent and agree to the deductions made and provided for herein. Payment of a
14 member's compensation less said deductions shall be a full and complete discharge and
15 acquittance of all claims and demands whatsoever for services rendered by him or her to a
16 participating public employer, except as to benefits provided by this article.

17 (c) The officer or officers responsible for making up the payrolls for payroll units of the
18 state government and for each of the other participating public employers shall cause the
19 contributions, provided in §5-10-29(b) of this code, to be deducted from the compensations of
20 each member in the employ of the participating public employer, on each and every payroll, for
21 each and every payroll period, from the date the member enters the retirement system to the date
22 his or her membership terminates. When deducted, each of said amounts shall be paid by the
23 participating public employer to the retirement system; said payments to be made in such manner
24 and form, and in such frequency, and shall be accompanied by such supporting data, as the board
25 of trustees shall, from time to time, prescribe. When paid to the retirement system, each of said
26 amounts shall be credited to the members' deposit fund account of the member from whose
27 compensations said contributions were deducted.

28 (d) In addition to the contributions deducted from the compensations of a member, as
29 heretofore provided, a member shall deposit in the members' deposit fund, by a single contribution
30 or by an increased rate of contribution as approved by the board of trustees, the amounts he or
31 she may have withdrawn therefrom and not repaid thereto, together with regular interest from the
32 date of withdrawal to the date of repayment. In no case shall a member be given credit for service
33 rendered prior to the date he or she withdrew his or her contributions or accumulated
34 contributions, as the case may be, until he or she returns to the members' deposit fund all amounts
35 due the said fund by him or her.

36 (e) Upon the retirement of a member, or if a survivor annuity becomes payable on account
37 of his or her death, in either event his or her accumulated contributions standing to his or her
38 credit in the members' deposit fund shall be transferred to the retirement reserve fund.

39 (f) In the event an employee's membership in the retirement system terminates and no
40 annuity becomes or will become payable on his or her account, any accumulated contributions
41 standing to his or her credit in the members' deposit fund, unclaimed by the said employee, or his
42 or her legal representative, within three years from and after the date his or her membership
43 terminated, shall be transferred to the income fund.

44 (g) Any member of the Legislature who is a member of the retirement system and with
45 respect to whom the term "final average salary" includes a multiple of eight, pursuant to the
46 provisions of §5-10-2(13) of this code, shall contribute to the retirement system on the basis of
47 his or her legislative compensation the sum of \$540 each year he or she participates in the
48 retirement system as a member of the Legislature.

49 (h) Notwithstanding any other provisions of this article, forfeitures under the system shall
50 not be applied to increase the benefits any member would otherwise receive under the system.

51 (i) Notwithstanding the requirement in this section for contributions from members of the
52 retirement system, such contributions, including concurrent contributions, shall not be made to
53 the retirement system during any given fiscal year in which the retirement system's most recent
54 actuarial valuation for funding completed by the Consolidated Public Retirement Board shows the
55 plan to have reached a funded level of at least 130 percent.

**§5-10-32. Appropriations for state contributions to retirement system; contributions for
members paid from special funds or by other employers.**

1 (a) At least 30 days prior to each regular session of the Legislature, the board of trustees
2 shall certify to the Governor the contributions, determined according to §5-10-31 of this code, to
3 be made by the state to the retirement system for the next following fiscal year; the said
4 contributions to be based upon the state's total payroll for the preceding 12 calendar months. The

5 amounts so ascertained shall be included in the appropriation bill to be submitted to the
6 Legislature. In the event the state's contributions for the fiscal year are less than they would have
7 been based upon the state's actual payroll for the fiscal year, the amount of the insufficiency shall
8 be included in the appropriation bill for the next following fiscal year. The said contributions shall
9 be paid to the retirement system quarterly and when paid shall be credited to the employers
10 accumulation fund.

11 (b) In the case of any member whose compensation is paid out of moneys derived, in
12 whole or in part, out of any special fund, or from any source other than the state, then contributions
13 on behalf of such member in any year shall be paid out of such special fund or by such other
14 source in proportion to that part of the member's compensation derived therefrom for that year.
15 The governing body of each participating public employer is hereby authorized to make such
16 contributions from funds of the participating public employer as shall be necessary to pay its
17 proportionate share of contributions on account of each state employee whose compensation is
18 paid by such participating public employer.

19 (c) Notwithstanding the requirement for appropriations referenced in §5-10-32(a) of this
20 code, the state shall not appropriate funds to the retirement system during any given fiscal year
21 in which the retirement system's most recent actuarial valuation for funding completed by the
22 Consolidated Public Retirement Board shows the plan to have reached a funded level of at least
23 130 percent.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

§7-14D-7. Members' contributions; employer contributions.

1 (a) There shall be deducted from the monthly salary of each member and paid into the
2 fund an amount equal to eight and one-half percent of his or her monthly salary. An additional
3 amount shall be paid to the fund by the county commission of the county in which the member is

4 employed in covered employment in an amount determined by the board: *Provided*, That in any
5 year preceding July 1, 2011, the total of the contributions provided in this section, to be paid by
6 the county commission, may not exceed 10 and one-half percent of the total payroll for the
7 members in the employ of the county commission: *Provided, however*, That on or after July 1,
8 2011, the total of the contributions provided in this section, to be paid by the county commission,
9 may not exceed 13 percent of the total payroll for the members in the employ of the county
10 commission. If the board finds that the benefits provided by this article can be actually funded with
11 a lesser contribution, then the board shall reduce the required member or employer contributions
12 or both. The sums withheld each calendar month shall be paid to the fund no later than 15 days
13 following the end of the calendar month.

14 (b) Any active member who has concurrent employment in an additional job or jobs and
15 the additional employment requires the deputy sheriff to be a member of another retirement
16 system which is administered by the Consolidated Public Retirement Board pursuant to §5-10D-
17 1 *et seq.* of this code shall make an additional contribution to the fund of eight and one-half percent
18 of his or her monthly salary earned from any additional employment which requires the deputy
19 sheriff to be a member of another retirement which is administered by the Consolidated Public
20 Retirement Board pursuant to §5-10D-1 *et seq.* of this code. An additional amount shall be paid
21 to the fund by the concurrent employer for which the member is employed in an amount
22 determined by the board: *Provided*, That in any year preceding July 1, 2011, the total of the
23 contributions provided in this section, to be paid by the concurrent employer, may not exceed 10
24 and one-half percent of the monthly salary of the employee: *Provided, however*, That on or after
25 July 1, 2011, the total of the contributions provided in this section, to be paid by the concurrent
26 employer, may not exceed 13 percent of the monthly salary of the employee. If the board finds
27 that the benefits provided by this article can be funded with a lesser contribution, then the board
28 shall reduce the required member or employer contributions or both. The sums withheld each
29 calendar month shall be paid to the fund no later than 15 days following the end of the calendar
30 month.

31 (c) Notwithstanding the requirement in this section for contributions from members and
32 the county commissions to the fund, neither deductions from members' monthly salaries, including
33 deductions deemed concurrent contributions, nor the additional contributions from the county
34 commission, shall be paid into the fund during any given fiscal year in which the fund's most
35 recent actuarial valuation for funding completed by the Consolidated Public Retirement Board
36 shows the plan to have reached a funded level of at least 130 percent.

CHAPTER 8. MUNICIPAL CORPORATIONS.

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

§8-22A-8. Members' contributions; employer contributions.

1 (a)(1) There shall be deducted from the monthly salary of each member and paid into the
2 fund an amount equal to eight and one-half percent, or 10 and one-half percent, if applicable, of
3 his or her monthly salary. An additional amount shall be paid to the fund by the municipality or
4 municipal subdivision in which the member is employed in covered employment in an amount
5 determined by the board: *Provided*, That in no year may the total of the employer contributions
6 provided in this section, to be paid by the municipality or municipal subdivision, exceed 10 and
7 one-half percent of the total payroll for the members in the employ of the municipality or municipal
8 subdivision. Any active member who has concurrent employment in an additional job or jobs and
9 the additional employment requires the police officer or firefighter to be a member of another
10 retirement system which is administered by the Consolidated Public Retirement Board pursuant
11 to §5-10D-1 *et seq.* of this code shall contribute to the fund the sum of eight and one-half percent,
12 or 10 and one-half percent, if applicable, of his or her monthly salary earned as a municipal police
13 officer or firefighter as well as the sum of eight and one-half percent, or 10 and one-half percent,
14 if applicable, of his or her monthly salary earned from any additional employment which additional
15 employment requires the police officer or firefighter to be a member of another retirement system

16 which is administered by the Consolidated Public Retirement Board pursuant to §5-10D-1 *et seq.*
17 of this code. An additional amount as determined by the board, not to exceed 10 and one-half
18 percent of the monthly salary of each member, shall be paid to the fund by the concurrent
19 employer by which the member is employed.

20 (2) The board may, on the recommendation of the board's actuary, increase the
21 employees' contribution rate from eight and one-half percent to 10 and one-half percent should
22 the plan not be 70 percent funded by July 1, 2014. The board shall decrease the contribution rate
23 to eight and one-half percent on July 1 following the acceptance by the board of an actuarial
24 valuation determining that the plan is 75 percent funded. If the plan funding level at a later actuarial
25 valuation date falls below 70 percent, the employee rate of contribution shall be increased to 10
26 and one-half percent of salary until the 75 percent level of funding is achieved. The board shall
27 change the employee contribution rate on July 1 following the board's acceptance of the actuarial
28 valuation. At no time may the rate of employee contribution exceed the rate of employer
29 contribution.

30 (b) All required deposits shall be remitted to the board no later than 15 days following the
31 end of the calendar month for which the deposits are required. If the board on the recommendation
32 of the board actuary finds that the benefits provided by this article can be actuarially funded with
33 a lesser contribution, then the board shall reduce the required member and employer
34 contributions proportionally. Any municipality or municipal subdivision which fails to make any
35 payment due the Municipal Police Officers and Firefighters Retirement Fund by the fifteenth day
36 following the end of each calendar month in which contributions are due may be required to pay
37 the actuarial rate of interest lost on the total amount owed for each day the payment is delinquent.
38 Accrual of the loss of earnings owed by the delinquent municipality or municipal subdivision
39 commences after the fifteenth day following the end of the calendar month in which contributions
40 are due and continues until receipt of the delinquent amount. Interest compounds daily and the
41 minimum surcharge is \$50.

1 (c) Notwithstanding the requirement in this section for contributions from members and
2 the municipality or municipal subdivision that employs the member, after January 1, 2030, neither
3 deductions from members' monthly salaries, including deductions deemed concurrent
4 contributions nor the additional contributions from the municipality or municipal subdivision that
5 employs the member shall be paid into the fund during any given fiscal year in which the fund's
6 most recent actuarial valuation for funding completed by the Consolidated Public Retirement
7 Board shows the plan to have reached a funded level of at least 130 percent.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-26. Continuation of Death, Disability and Retirement Fund; designating the Consolidated Public Retirement Board as administrator of fund.

1 (a) There is continued the Death, Disability and Retirement Fund created for the benefit
2 of members, retirants and any dependents of retirants or deceased members of the fund. It is
3 contemplated that substantially all of the members of the retirement system shall be qualified
4 public safety employees as defined in §15-2-25b of this code.

5 (b) There shall be deducted from the monthly payroll of each employee and paid into the
6 fund six percent of the amount of his or her salary: *Provided*, That beginning on July 1, 1994,
7 there shall be deducted from the monthly payroll of each employee and paid into the fund seven
8 and one-half percent of the amount of his or her salary: *Provided, however*, That on and after July
9 1, 1995, there shall be deducted from the monthly payroll of each employee and paid into the fund
10 nine percent of the amount of his or her salary. An additional 12 percent of the monthly salary of
11 each employee shall be paid by the State of West Virginia monthly into the fund out of the annual
12 appropriation for the agency: *Provided further*, That beginning on July 1, 1995, the agency shall
13 pay 13 percent of the monthly salary of each employee into the fund: *And provided further*, That
14 beginning on July 1, 1996, the agency shall pay 14 percent of the monthly salary of each

15 employee into the fund: *And provided further*, That on and after July 1, 1997, the agency shall
16 pay 15 percent of the monthly salary of each employee into the fund. There shall also be paid into
17 the fund amounts that have previously been collected by the superintendent of the agency on
18 account of payments to employees for court attendance and mileage, rewards for apprehending
19 wanted persons, fees for traffic accident reports and photographs, fees for criminal investigation
20 reports and photographs, fees for criminal history record checks, fees for criminal history record
21 reviews and challenges or from any other sources designated by the superintendent. All moneys
22 payable into the fund shall be deposited in the State Treasury and the board shall keep a separate
23 account thereof.

24 (c) Notwithstanding any other provisions of this article, forfeitures under the fund shall not
25 be applied to increase the benefits any member would otherwise receive under the fund.

26 (d) The moneys in this fund, and the right of a member to a retirement allowance, to the
27 return of contributions, or to any benefit under the provisions of this article, are exempt from any
28 state or municipal tax; are not subject to execution, garnishment, attachment, or any other process
29 whatsoever, with the exception that the benefits or contributions under the fund are subject to
30 "qualified domestic relations orders" as that term is defined in Section 414(p) of the Internal
31 Revenue Code with respect to governmental plans; and are unassignable except as is provided
32 in this article. The fund shall be administered by the board created pursuant to §5-10D-1 *et seq.*
33 of this code.

34 (e) All moneys paid into and accumulated in the fund, except amounts designated or set
35 aside by the awards, shall be invested by the West Virginia Investment Management Board as
36 provided by law.

37 (f) Notwithstanding the requirement in this section for the state to appropriate moneys to
38 the fund, the state shall not appropriate monies to the fund during any given fiscal year in which
39 the fund's most recent actuarial valuation for funding completed by the Consolidated Public
40 Retirement Board shows the plan to have reached a funded level of at least 130 percent.

41 Additionally, the deductions from the monthly payroll of each employee referenced in this section,
42 including deductions deemed concurrent contributions, shall not be made during any given fiscal
43 year in which the fund's most recent actuarial valuation for funding completed by the Consolidated
44 Public Retirement Board shows the plan to have reached a funded level of at least 130 percent.

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 each employee and paid into the
2 fund created pursuant to §15-2A-4 of this code 12 percent of the amount of his or her salary:
3 *Provided, That after July 1, 2008, if the funding percentage of the fund determined by the board*
4 *falls below the 90 percent threshold, then the employee rate of contribution shall be increased to*
5 *13 percent of the amount of the employee's salary until the 90 percent or better funding level is*
6 *again achieved. Once that funding level is achieved the employee contribution rate will be reduced*
7 *to 12 percent.*

8 (b) The State of West Virginia's contributions to the retirement system, as determined by
9 the board, shall be a percent of the employees' total annual base salary related to benefits under
10 this retirement system. In determining the amount, the board shall give consideration to setting
11 the amount at a sum equal to an amount which, if paid annually by the state, will be sufficient to
12 provide for the total normal cost of the benefits expected to become payable to all members and
13 retirants and to amortize any unfunded liability found by application of the actuarial funding
14 method chosen for that purpose by the board over a period of years determined actuarially
15 appropriate. The state's contributions shall be paid monthly into the fund created pursuant to §15-
16 2A-4 of this code out of the annual appropriation for the agency.

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

20 (d) Notwithstanding the requirement for appropriations in this section, the state shall not
21 make appropriations to the fund during any given fiscal year in which the fund's most recent
22 actuarial valuation for funding completed by the Consolidated Public Retirement Board shows the
23 plan to have reached a funded level of at least 130 percent. Additionally, the deductions from the
24 monthly payroll of each employee referenced in this section, including deductions deemed
25 concurrent contributions, shall not be made during any given fiscal year in which the fund's most
26 recent actuarial valuation for funding completed by the Consolidated Public Retirement Board
27 shows the plan to have reached a funded level of at least 130 percent.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-8. Members' contributions; employer contributions.

1 (a) There shall be deducted from the monthly salary of each member and paid into the
2 fund an amount equal to eight and one-half percent of his or her monthly salary. An additional
3 amount shall be paid to the fund by the county commission or political subdivision in which the
4 member is employed in covered employment in an amount determined by the board: *Provided,*
5 That in no year may the total of the employer contributions provided in this section, to be paid by
6 the county commission or political subdivision, exceed 10 and one-half percent of the total payroll
7 for the members in the employ of the county commission or political subdivision.

8 (b) Any active member who has concurrent employment in an additional job or jobs and
9 the additional employment requires the emergency medical services officer to be a member of
10 another retirement system which is administered by the Consolidated Public Retirement Board
11 pursuant to §5-10D-1 *et seq.* of this code shall contribute to the fund the sum of eight and one-
12 half percent of his or her monthly salary earned as an emergency medical services officer as well
13 as the sum of eight and one-half percent of his or her monthly salary earned from any additional
14 employment which additional employment requires the emergency medical services officer to be
15 a member of another retirement system which is administered by the Consolidated Public
16 Retirement Board pursuant to §5-10D-1 *et seq.* of this code. An additional percent of the monthly

17 salary of each member shall be paid to the fund by the concurrent employer by which the member
18 is employed in an amount determined by the board: *Provided*, That in no year may the total of the
19 employer contributions provided in this section, to be paid by the concurrent employer, exceed 10
20 and one-half percent of the payroll for the concurrent member employees.

21 (c) All required deposits shall be remitted to the board no later than 15 days following the
22 end of the calendar month for which the deposits are required. If the board upon the
23 recommendation of the board actuary finds that the benefits provided by this article can be
24 actuarially funded with a lesser contribution, then the board shall reduce the required member
25 and employer contributions proportionally. Any county commission or political subdivision which
26 fails to make any payment due the Emergency Medical Services Retirement Fund by the fifteenth
27 day following the end of each calendar month in which contributions are due may be required to
28 pay the actuarial rate of interest lost on the total amount owed for each day the payment is
29 delinquent. Accrual of the loss of earnings owed by the delinquent county commission or political
30 subdivision commences after the fifteenth day following the end of the calendar month in which
31 contributions are due and continues until receipt of the delinquent amount. Interest compounds
32 daily and the minimum surcharge is \$50.

33 (d) Notwithstanding the requirement in this section for a county commission or political
34 subdivision to make appropriations to the fund, neither the relevant county commission nor the
35 political subdivision who employs a member of the fund shall appropriate moneys to the fund
36 during any given fiscal year in which the fund's most recent actuarial valuation for funding
37 completed by the Consolidated Public Retirement Board shows the plan to have reached a funded
38 level of at least 130 percent. Additionally, the deductions referenced in this section from each
39 member's monthly salary, including deductions deemed concurrent contributions, shall not be
40 made during any given fiscal year in which the fund's most recent actuarial valuation for funding
41 completed by the Consolidated Public Retirement Board shows the plan to have reached a funded
42 level of at least 130 percent.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-14. Contributions by members; contributions by employers; forfeitures.

1 (a) At the end of each month every member of the retirement system shall contribute six
2 percent of that member's monthly gross salary to the retirement board: *Provided*, That any
3 member employed by a state institution of higher education shall contribute on the member's full
4 earnable compensation, unless otherwise provided in §18-7A-14a of this code. The sums are due
5 the State Teachers Retirement System at the end of each calendar month and shall be paid not
6 later than 15 days following the end of the calendar month. Each remittance shall be accompanied
7 by a detailed summary of the sums withheld from the gross compensation of each member for
8 that month on forms, either paper or electronic, provided by the State Teachers Retirement
9 System for that purpose.

10 (b) Annually, the contributions of each member shall be credited to the member's account
11 in the State Teachers Retirement System Fund. The contributions shall be deducted from the
12 gross salaries of the members as prescribed in this section and every member shall be considered
13 to have given consent to the deductions. No deductions, however, shall be made from the
14 earnable compensation of any member who retired because of age or service and then resumed
15 service unless as provided in §18-7A-13a of this code.

16 (c) The aggregate of employer contributions, due and payable under this article, shall
17 equal annually the total deductions from the gross salary of members required by this section.
18 Beginning July 1, 1994, the rate shall be seven and one-half percent; beginning on July 1, 1995,
19 the rate shall be nine percent; beginning on July 1, 1996, the rate shall be 10 and one-half percent;
20 beginning on July 1, 1997, the rate shall be 12 percent; beginning on July 1, 1998, the rate shall
21 be 13 and one-half percent; and beginning on July 1, 1999, and thereafter, the rate shall be 15
22 percent: *Provided*, That the rate shall be seven and one-half percent for any individual who

23 becomes a member of the State Teachers Retirement System for the first time on or after July 1,
24 2005, or any individual who becomes a member of the State Teachers Retirement System as a
25 result of the voluntary transfer contemplated in §18-7D-1 *et seq.* of this code.

26 (d) Payment by an employer to a member of the sum specified in the employment contract
27 minus the amount of the employee's deductions shall be considered to be a full discharge of the
28 employer's contractual obligation as to earnable compensation.

29 (e) Each employer shall file with the retirement board a completed enrollment form
30 showing the contributor's date of birth and other data needed by the retirement board.

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

34 (g) Notwithstanding the requirement for member contributions referenced in this section,
35 contributions, including concurrent contributions, shall not be made during any given fiscal year
36 in which the retirement system's most recent actuarial valuation for funding completed by the
37 Consolidated Public Retirement Board shows the plan to have reached a funded level of at least
38 130 percent. Additionally, the employer contributions referenced in this section shall not be made
39 during any given fiscal year in which the retirement system's most recent actuarial valuation for
40 funding completed by the Consolidated Public Retirement Board shows the plan to have reached
41 a funded level of at least 130 percent.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-2. Judges' Retirement Fund created; composition.

1 As a part of the Judges' Retirement System, there is hereby created a Judges' Retirement
2 Fund which shall be made up of and into which shall be paid:

3 (a) Percentage contributions from salaries of judges as provided in §51-9-4 of this code;

4 (b) Gifts and bequests to the fund and any accretions and accumulations which may
5 properly be paid into and become a part of the fund;

6 (c) Specific appropriations to the fund made by the Legislature of the State of West Virginia
7 and by any county court or courts of the state: Provided, That neither the State of West Virginia,
8 nor any county court, nor courts of the state, shall make appropriations to the fund during any
9 given fiscal year in which the retirement system's most recent actuarial valuation for funding
10 completed by the Consolidated Public Retirement Board shows the plan to have reached a funded
11 level of at least 130 percent.

12 (d) Interest on the investment of any part or parts of the fund;

13 (e) Any other moneys, available and not otherwise expended, which may be appropriated
14 or transferred to the fund.

**§51-9-4. Required percentage contributions from salaries; any termination of required
contributions prior to actual retirement disallowed; leased employees; military
service credit; maximum allowable and qualified military service; qualifiable
prosecutorial service.**

1 (a) Every person who is now serving or shall hereafter serve as a judge of any court of
2 record of this state shall pay into the Judges' Retirement Fund six percent of the salary received
3 by such person out of the State Treasury: *Provided, That* when a judge becomes eligible to
4 receive benefits from such trust fund by actual retirement, no further payment by him or her shall
5 be required, since such employee contribution, in an equal treatment sense, ceases to be required
6 in the other retirement systems of the state, also, only after actual retirement: *Provided, however,*
7 That on and after January 1, 1995, every person who is then serving or shall thereafter serve as
8 a judge of any court of record in this state shall pay into the Judges' Retirement Fund nine percent
9 of the salary received by that person: *Provided further, That* consistent with the salary increase
10 granted to judges of courts of record during the 2005 regular legislative session and to changes
11 effectuated in judicial retirement by provisions enacted during the third extraordinary legislative

12 session of 2005, on and after July 1, 2005, every person who is then serving or shall thereafter
13 serve as a judge of any court of record in this state shall pay into the Judges' Retirement Fund 10
14 and one-half percent of the salary received by that person: *And provided further*, That on and
15 after July 1, 2013, except as provided in §51-9-4(b) of this code, every person who is then serving
16 or shall thereafter serve as a judge of any court of record in this state and who elects to participate
17 in this retirement system shall pay into the Judges' Retirement Fund seven percent of the salary
18 received. Any prior occurrence or practice to the contrary, in any way allowing discontinuance of
19 required employee contributions prior to actual retirement under this retirement system, is rejected
20 as erroneous and contrary to legislative intent and as violative of required equal treatment and is
21 hereby nullified and discontinued fully, with the State Auditor to require such contribution in every
22 instance hereafter, except where no contributions are required to be made under any of the
23 provisions of this article.

24 (b) On and after July 1, 2014, every person who is serving or shall hereafter serve as a
25 judge of any court of record of this state and who elects to participate in this retirement system
26 shall contribute to the fund an amount determined by the board. This amount will be based on the
27 annual actuarial valuation prepared by the State Actuary: *Provided*, That the contribution will be
28 no less than seven percent or no more than 10 and one-half percent of the participant's annual
29 compensation.

30 (c) On or after July 1, 2013, and each year thereafter, the annual actuarial valuation
31 prepared by the State Actuary for determination of all participants' contributions and the annual
32 actuarially required contribution prepared by the State Actuary for use by the courts of this state
33 for legislative appropriation shall be provided to the Legislature's Joint Committee on Government
34 and Finance and the Joint Committee on Pensions and Retirement.

35 (d) An individual who is a leased employee shall not be eligible to participate in the system.
36 For purposes of this system, a "leased employee" means any individual who performs services
37 as an independent contractor or pursuant to an agreement with an employee leasing organization

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

40 (e) In drawing warrants for the salary checks of judges, the State Auditor shall deduct from
41 the amount of each such salary check six percent thereof, which amount so deducted shall be
42 credited by the Consolidated Public Retirement Board to the trust fund: *Provided*, That on or after
43 January 1, 1995, the amount so deducted and credited shall be nine percent of each such salary
44 check: *Provided, however*, That consistent with the salary increase granted to judges of courts of
45 record during the 2005 regular legislative session and to changes effectuated in judicial retirement
46 by provisions enacted during the third extraordinary legislative session of 2005, on or after July
47 1, 2005, the amount so deducted and credited shall be 10 and one-half percent of each such
48 salary check: *Provided further*, That on and after July 1, 2013, except as provided in §51-9-4(b)
49 of this code, the amount so deducted and credited shall be seven percent of each salary check:
50 *And provided further*, That on and after July 1, 2014, the amount so deducted and credited will be
51 determined by the board.

52 (f) Any judge seeking to qualify military service to be claimed as credited service, in
53 allowable aggregate maximum amount up to five years, shall be entitled to be awarded the same
54 without any required payment in respect thereof to the Judges' Retirement Fund.

55 (g) Notwithstanding the preceding provisions of this section, contributions, benefits and
56 service credit with respect to qualified military service shall be provided in accordance with
57 Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military
58 service" has the same meaning as in Section 414(u) of the Internal Revenue Code. The
59 Retirement Board is authorized to determine all questions and make all decisions relating to this
60 section and may promulgate rules relating to contributions, benefits and service credit pursuant
61 to the authority granted to the retirement board in §5-10D-1 of this code to comply with Section
62 414(u) of the Internal Revenue Code.

63 (h) Any judge holding office as such on the effective date of the amendments to this article
64 adopted by the Legislature at its 1987 regular session who seeks to qualify service as a
65 prosecuting attorney as credited service, which service credit must have been earned prior to the
66 year 1987, shall be required to pay into the Judges' Retirement Fund nine percent of the annual
67 salary which was actually received by such person as prosecuting attorney during the time such
68 prosecutorial service was rendered prior to the year 1987 and for which credited service is being
69 sought, together with applicable interest. No judge whose term of office shall commence after the
70 effective date of such amendments to this article shall be eligible to claim any credit for service
71 rendered as a prosecuting attorney as eligible service for retirement benefits under this article,
72 nor shall any time served as a prosecutor after the year 1988 be considered as eligible service
73 for any purposes of this article.

74 (i) Notwithstanding the provisions in this section for contributions to the fund by
75 participating judges, participating judges shall not make contributions, including concurrent
76 contributions, to the fund during any given fiscal year in which the fund's most recently calculated
77 actuarial valuation for funding completed by the Consolidated Public Retirement Board shows the
78 plan to have reached a funded level of at least 130 percent.

NOTE: The purpose of this bill is to establish a contribution holiday for public pension plans that are funded at 130 percent or more.

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