

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2706**

BY DELEGATES HARSHBARGER, STEELE, WILSON,  
FOSTER, J. JEFFRIES, HIGGINBOTHAM, HOLLEN, COOPER,  
MCGEEHAN, KESSINGER AND CADLE

[Introduced January 28, 2019; Referred  
to the Committee on Pensions and Retirement then  
Finance.]

1 A BILL to amend and reenact §18-7A-17 of the Code of West Virginia, 1931, as amended, relating  
2 to providing that members of the State Teachers Retirement System shall be considered  
3 absent from service as a teacher or nonteacher while serving as an officer with a statewide  
4 professional teaching association after 2018; and providing that retirants, who have served  
5 in that capacity after 2018 while members, shall be considered to have been absent from  
6 service as a teacher by reason of that service.

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

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

### **§18-7A-17. Statement and computation of teachers' service.**

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

7 (b) For service as a teacher in the employment of the federal government, or a state or  
8 territory of the United States, or a governmental subdivision of that state or territory, the retirement  
9 board shall grant credit to the member: *Provided*, That the member shall pay to the system twelve  
10 percent of that member's gross salary earned during the first full year of current employment  
11 whether a member of the Teachers Retirement System or the Teachers' Defined Contribution  
12 Retirement System, times the number of years for which credit is granted, plus interest at a rate  
13 to be determined by the retirement board. The interest shall be deposited in the reserve fund and  
14 service credit granted at the time of retirement shall not exceed the lesser of 10 years or  
15 50 percent of the member's total service as a teacher in West Virginia. Any purchase of out-of-  
16 state service, as provided in this article, shall not be used to establish eligibility for a retirement  
17 allowance and the retirement board shall grant credit for the purchased service as additional

18 service only: *Provided, however,* That a purchase of out-of-state service is prohibited if the service  
19 is used to obtain a retirement benefit from another retirement system: *Provided further,* That  
20 salaries paid to members for service prior to entrance into the retirement system shall not be used  
21 to compute the average final salary of the member under the retirement system.

22 (c) No members shall be considered absent from service while serving as a member or  
23 employee of the Legislature of the State of West Virginia during any duly constituted session of  
24 that body or while serving as an elected member of a county commission during any duly  
25 constituted session of that body.

26 (d) No member shall be considered absent from service as a teacher or nonteacher while  
27 serving as an officer with a statewide professional teaching association, or who has served in that  
28 capacity, and no retirant, who served in that capacity while a member, shall be considered to have  
29 been absent from service as a teacher by reason of that service: *Provided,* That the period of  
30 service credit granted for that service shall not exceed ten years: *Provided, however,* That a  
31 member or retirant who is serving or has served as an officer of a statewide professional teaching  
32 association shall make deposits to the Teachers Retirement System, for the time of any absence,  
33 in an amount double the amount which he or she would have contributed in his or her regular  
34 assignment for a like period of time: *Provided further,* This subsection shall only apply to any  
35 member serving as an officer with a statewide professional teaching association who was an  
36 officer on or before January 1, 2019.

37 (e) The Teachers Retirement System shall grant service credit to any former or present  
38 member of the West Virginia Public Employees Retirement System who has been a contributing  
39 member of the Teachers Retirement System for more than three years, for service previously  
40 credited by the Public Employees Retirement System upon his or her written request and: (1)  
41 Shall require the transfer of the member's Public Employees Retirement System accumulated  
42 contributions to the Teachers Retirement System; or (2) shall require a repayment of the amount  
43 withdrawn from the Public Employees Retirement System, plus interest at a rate to be determined

44 by the retirement board, compounded annually from the date of withdrawal to the date of payment,  
45 any time prior to the member's effective retirement date: *Provided*, That there shall be added by  
46 the member to the amounts transferred or repaid under this subsection an amount which shall be  
47 sufficient to equal the contributions he or she would have made had the member been under the  
48 Teachers Retirement System during the period of his or her membership in the Public Employees  
49 Retirement System, plus interest at a rate determined by the retirement board, compounded  
50 annually from the date the additional contribution would have been made had the member been  
51 under the Teachers Retirement System to the date of payment. All interest paid or transferred  
52 shall be deposited in the reserve fund.

53 (f) For service as a teacher in an elementary or secondary parochial school, located within  
54 this state and fully accredited by the West Virginia Department of Education, the retirement board  
55 shall grant credit to the member: *Provided*, That the member shall pay to the system twelve  
56 percent of that member's gross salary earned during the first full year of current employment  
57 whether a member of the Teachers Retirement System or the Teachers' Defined Contribution  
58 Retirement System, times the number of years for which credit is granted, plus interest at a rate  
59 to be determined by the retirement board. The interest shall be deposited in the reserve fund and  
60 service granted at the time of retirement shall not exceed the lesser of 10 years or 50 percent of  
61 the member's total service as a teacher in the West Virginia public school system. Any purchase  
62 of parochial school service, as provided in this section, may not be used to establish eligibility for  
63 a retirement allowance and retirement board shall grant credit for the purchase as additional  
64 service only: *Provided, however*, That a purchase of parochial school service is prohibited if the  
65 service is used to obtain a retirement benefit from another retirement system.

66 (g) Active members who previously worked in Comprehensive Employment and Training  
67 Act (CETA) may receive service credit for time served in that capacity: *Provided*, That in order to  
68 receive service credit under the provisions of this subsection the following conditions must be  
69 met: (1) The member must have moved from temporary employment with the participating

70 employer to permanent full-time employment with the participating employer within one hundred  
71 twenty days following the termination of the member's CETA employment; (2) the retirement  
72 board must receive evidence that establishes to a reasonable degree of certainty as determined  
73 by the retirement board that the member previously worked in CETA; and (3) the member shall  
74 pay to the retirement board an amount equal to the employer and employee contribution plus  
75 interest at the amount set by the retirement board for the amount of service credit sought pursuant  
76 to this subsection: *Provided, however,* That the maximum service credit that may be obtained  
77 under the provisions of this subsection is two years: *Provided further,* That a member must apply  
78 and pay for the service credit allowed under this subsection and provide all necessary  
79 documentation by March 31, 2003: *And provided further,* That the retirement board shall exercise  
80 due diligence to notify affected employees of the provisions of this subsection.

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

83 (i) A member who withdrew from membership may regain his or her former membership  
84 rights as specified in section 13 of this article only in case he or she has served two years since  
85 his or her last withdrawal.

86 (j) Subject to the provisions of subsections (a) through (k), inclusive, of this section, the  
87 retirement board shall verify as soon as practicable the statements of service submitted. The  
88 retirement board shall issue prior service certificates to all persons eligible for the certificates  
89 under the provisions of this article. The certificates shall state the length of the prior service credit,  
90 but in no case shall the prior service credit exceed forty years.

91 (k) Notwithstanding any provision of this article to the contrary, when a member is or has  
92 been elected to serve as a member of the Legislature, and the proper discharge of his or her  
93 duties of public office require that member to be absent from his or her teaching or administrative  
94 duties, the time served in discharge of his or her duties of the legislative office are credited as  
95 time served for purposes of computing service credit: *Provided,* That the retirement board may

96 not require any additional contributions from that member in order for the retirement board to  
97 credit him or her with the contributing service credit earned while discharging official legislative  
98 duties: *Provided, however,* That nothing in this section may be construed to relieve the employer  
99 from making the employer contribution at the member's regular salary rate or rate of pay from that  
100 employer on the contributing service credit earned while the member is discharging his or her  
101 official legislative duties. These employer payments shall commence as of June 1,2000: *Provided*  
102 *further,* That any member to which the provisions of this subsection apply may elect to pay to the  
103 retirement board an amount equal to what his or her contribution would have been for those  
104 periods of time he or she was serving in the Legislature. The periods of time upon which the  
105 member paid his or her contribution shall then be included for purposes of determining his or her  
106 final average salary as well as for determining years of service: *And provided further,* That a  
107 member using the provisions of this subsection is not required to pay interest on any contributions  
108 he or she may decide to make.

109 (l) The Teachers Retirement System shall grant service credit to any former member of  
110 the State Police Death, Disability and Retirement System who has been a contributing member  
111 for more than three years for service previously credited by the State Police Death, Disability and  
112 Retirement System; and: (1) Shall require the transfer of the member's contributions to the  
113 Teachers Retirement System; or (2) shall require a repayment of the amount withdrawn any time  
114 prior to the member's retirement: *Provided,* That the member shall add to the amounts transferred  
115 or repaid under this paragraph an amount which is sufficient to equal the contributions he or she  
116 would have made had the member been under the Teachers Retirement System during the period  
117 of his or her membership in the State Police Death, Disability and Retirement System plus interest  
118 at a rate to be determined by the retirement board compounded annually from the date of  
119 withdrawal to the date of payment. The interest paid shall be deposited in the reserve fund.

NOTE: The purpose of this bill is to exclude time spent as an officer with a statewide

professional teaching association from credit as service toward retirement calculation for members in the Teachers Retirement System.

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