

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 327**

BY SENATOR KARNES

[Introduced February 18, 2021; referred  
to the Committee on Pensions; and then to the  
Committee on Finance]

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 of said code; and to amend and reenact §51-9-2 and §51-9-4 of said code, all  
 6 relating to establishing a pension contribution holiday for plans administered by the  
 7 Consolidated 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 subsection (g) of this section shall be a sum of not  
 7 less than three and five-tenths percent of his or her annual compensation but not more than four  
 8 and 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 subsection (b) of this section, to be deducted from the compensations  
20 of 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.**

56 (a) At least 30 days prior to each regular session of the Legislature, the board of trustees  
57 shall certify to the Governor the contributions, determined according to §5-10-31 of this code, to  
58 be made by the state to the retirement system for the next following fiscal year; the said  
59 contributions to be based upon the state's total payroll for the preceding 12 calendar months. The  
60 amounts so ascertained shall be included in the appropriation bill to be submitted to the

61 Legislature. In the event the state's contributions for the fiscal year are less than they would have  
62 been based upon the state's actual payroll for the fiscal year, the amount of the insufficiency shall  
63 be included in the appropriation bill for the next following fiscal year. The said contributions shall  
64 be paid to the retirement system quarterly and when paid shall be credited to the employers  
65 accumulation fund.

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

74 (c) Notwithstanding the requirement for appropriations referenced in §5-10-32(a) of this  
75 code, the state shall not appropriate funds to the retirement system during any given fiscal year  
76 in which the retirement system's most recent actuarial valuation for funding completed by the  
77 Consolidated Public Retirement Board shows the plan to have reached a funded level of at least  
78 130 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 15th 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 15th day following the end of the calendar month in which contributions are  
40 due and continues until receipt of the delinquent amount. Interest compounds daily and the  
41 minimum surcharge is \$50.



42 (c) Notwithstanding the requirement in this section for contributions from members and  
43 the municipality or municipal subdivision that employs the member, after January 1, 2030, neither  
44 deductions from members' monthly salaries, including deductions deemed concurrent  
45 contributions nor the additional contributions from the municipality or municipal subdivision that  
46 employs the member shall be paid into the fund during any given fiscal year in which the fund's  
47 most recent actuarial valuation for funding completed by the Consolidated Public Retirement  
48 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 moneys 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 15th  
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 15th 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 subsection (b) of this section, every person who is then  
16 serving or shall thereafter serve as a judge of any court of record in this state and who elects to  
17 participate in this retirement system shall pay into the Judges' Retirement Fund seven percent of  
18 the salary received. Any prior occurrence or practice to the contrary, in any way allowing  
19 discontinuance of required employee contributions prior to actual retirement under this retirement  
20 system, is rejected as erroneous and contrary to legislative intent and as violative of required  
21 equal treatment and is hereby nullified and discontinued fully, with the State Auditor to require  
22 such contribution in every instance hereafter, except where no contributions are required to be  
23 made under any of the 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 subsection  
49 (b) of this section, the amount so deducted and credited shall be seven percent of each salary  
50 check: *And provided further*, That on and after July 1, 2014, the amount so deducted and credited  
51 will be 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.