WEST virginia legislature

2022 regular session

Introduced

**FISCAL NOTE**

Senate Bill 61

By Senator Karnes

[Introduced January 12, 2022; referred
to the Committee on Pensions; and then to the Committee on Finance]

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

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

(b) The contributions of a member to the retirement system (including any member of the Legislature, except as otherwise provided in subsection (g) of this section shall be a sum of not less than three and five-tenths percent of his or her annual compensation but not more than four and five-tenths percent of his or her annual compensation, as determined by the board of trustees: *Provided,* That for persons who first become members of the retirement system on or after July 1, 2015, the contributions to the system shall be six percent of his or her annual compensation beginning July 1, 2015. The said contributions shall be made notwithstanding that the minimum salary or wages provided by law for any member shall be thereby changed. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of a member’s compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by him or her to a participating public employer, except as to benefits provided by this article.

(c) The officer or officers responsible for making up the payrolls for payroll units of the state government and for each of the other participating public employers shall cause the contributions, provided in subsection (b) of this section, to be deducted from the compensations of each member in the employ of the participating public employer, on each and every payroll, for each and every payroll period, from the date the member enters the retirement system to the date his or her membership terminates. When deducted, each of said amounts shall be paid by the participating public employer to the retirement system; said payments to be made in such manner and form, and in such frequency, and shall be accompanied by such supporting data, as the board of trustees shall, from time to time, prescribe. When paid to the retirement system, each of said amounts shall be credited to the members’ deposit fund account of the member from whose compensations said contributions were deducted.

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

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

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

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

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

(i) Notwithstanding the requirement in this section for contributions from members of the retirement system, such contributions, including concurrent contributions, shall not be made to the retirement system during any given fiscal year in which the retirement system’s most recent actuarial valuation for funding completed by the Consolidated Public Retirement Board shows the 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.

(a) At least 30 days prior to each regular session of the Legislature, the board of trustees shall certify to the Governor the contributions, determined according to §5-10-31 of this code, to be made by the state to the retirement system for the next following fiscal year; the said contributions to be based upon the state’s total payroll for the preceding 12 calendar months. The amounts so ascertained shall be included in the appropriation bill to be submitted to the Legislature. In the event the state’s contributions for the fiscal year are less than they would have been based upon the state’s actual payroll for the fiscal year, the amount of the insufficiency shall be included in the appropriation bill for the next following fiscal year. The said contributions shall be paid to the retirement system quarterly and when paid shall be credited to the employers accumulation fund.

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

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

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

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

(a) There shall be deducted from the monthly salary of each member and paid into the fund an amount equal to eight and one-half percent of his or her monthly salary. An additional amount shall be paid to the fund by the county commission of the county in which the member is employed in covered employment in an amount determined by the board: *Provided*, That in any year preceding July 1, 2011, the total of the contributions provided in this section, to be paid by the county commission, may not exceed 10 and one-half percent of the total payroll for the members in the employ of the county commission: *Provided, however*, That on or after July 1, 2011, the total of the contributions provided in this section, to be paid by the county commission, may not exceed 13 percent of the total payroll for the members in the employ of the county commission. If the board finds that the benefits provided by this article can be actually funded with a lesser contribution, then the board shall reduce the required member or employer contributions or both. The sums withheld each calendar month shall be paid to the fund no later than 15 days following the end of the calendar month.

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

(c) Notwithstanding the requirement in this section for contributions from members and the county commissions to the fund, neither deductions from members’ monthly salaries, including deductions deemed concurrent contributions, nor the additional contributions from the county commission, shall be paid into the fund during any given fiscal year in which the fund’s most recent actuarial valuation for funding completed by the Consolidated Public Retirement Board 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.

(a)(1) There shall be deducted from the monthly salary of each member and paid into the fund an amount equal to eight and one-half percent, or 10 and one-half percent, if applicable, of his or her monthly salary. An additional amount shall be paid to the fund by the municipality or municipal subdivision in which the member is employed in covered employment in an amount determined by the board: *Provided*, That in no year may the total of the employer contributions provided in this section, to be paid by the municipality or municipal subdivision, exceed 10 and one-half percent of the total payroll for the members in the employ of the municipality or municipal subdivision. Any active member who has concurrent employment in an additional job or jobs and the additional employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to §5-10D-1 *et seq.* of this code shall contribute to the fund the sum of eight and one-half percent, or 10 and one-half percent, if applicable, of his or her monthly salary earned as a municipal police officer or firefighter as well as the sum of eight and one-half percent, or 10 and one-half percent, if applicable, of his or her monthly salary earned from any additional employment which additional employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to §5-10D-1 *et seq*. of this code. An additional amount as determined by the board, not to exceed 10 and one-half percent of the monthly salary of each member, shall be paid to the fund by the concurrent employer by which the member is employed.

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

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

(c) Notwithstanding the requirement in this section for contributions from members and the municipality or municipal subdivision that employs the member, after January 1, 2030, neither deductions from members’ monthly salaries, including deductions deemed concurrent contributions nor the additional contributions from the municipality or municipal subdivision that employs the member shall be paid into the fund during any given fiscal year in which the fund’s most recent actuarial valuation for funding completed by the Consolidated Public Retirement 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.

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

(b) There shall be deducted from the monthly payroll of each employee and paid into the fund six percent of the amount of his or her salary: *Provided,* That beginning on July 1, 1994, there shall be deducted from the monthly payroll of each employee and paid into the fund seven and one-half percent of the amount of his or her salary: *Provided, however,* That on and after July 1, 1995, there shall be deducted from the monthly payroll of each employee and paid into the fund nine percent of the amount of his or her salary. An additional 12 percent of the monthly salary of each employee shall be paid by the State of West Virginia monthly into the fund out of the annual appropriation for the agency: *Provided further,* That beginning on July 1, 1995, the agency shall pay 13 percent of the monthly salary of each employee into the fund: *And provided further,* That beginning on July 1, 1996, the agency shall pay 14 percent of the monthly salary of each employee into the fund: *And provided further,* That on and after July 1, 1997, the agency shall pay 15 percent of the monthly salary of each employee into the fund. There shall also be paid into the fund amounts that have previously been collected by the superintendent of the agency on account of payments to employees for court attendance and mileage, rewards for apprehending wanted persons, fees for traffic accident reports and photographs, fees for criminal investigation reports and photographs, fees for criminal history record checks, fees for criminal history record reviews and challenges or from any other sources designated by the superintendent. All moneys payable into the fund shall be deposited in the State Treasury and the board shall keep a separate account thereof.

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

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

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

(f) Notwithstanding the requirement in this section for the state to appropriate moneys to the fund, the state shall not appropriate moneys to the fund during any given fiscal year in which the fund’s most recent actuarial valuation for funding completed by the Consolidated Public Retirement Board shows the plan to have reached a funded level of at least 130 percent. Additionally, the deductions from the monthly payroll of each employee referenced in this section, including deductions deemed concurrent contributions, shall not be made during any given fiscal year in which the fund’s most recent actuarial valuation for funding completed by the Consolidated 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.

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

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

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

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

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

(b) Any active member who has concurrent employment in an additional job or jobs and the additional employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to §5-10D-1 *et seq.* of this code shall contribute to the fund the sum of eight and one-half percent of his or her monthly salary earned as an emergency medical services officer as well as the sum of eight and one-half percent of his or her monthly salary earned from any additional employment which additional employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to §5-10D-1 *et seq.* of this code. An additional percent of the monthly salary of each member shall be paid to the fund by the concurrent employer by which the member is employed in an amount determined by the board: *Provided,* That in no year may the total of the employer contributions provided in this section, to be paid by the concurrent employer, exceed 10 and one-half percent of the payroll for the concurrent member employees.

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

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

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

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

(c) The aggregate of employer contributions, due and payable under this article, shall equal annually the total deductions from the gross salary of members required by this section. Beginning July 1, 1994, the rate shall be seven and one-half percent; beginning on July 1, 1995, the rate shall be nine percent; beginning on July 1, 1996, the rate shall be 10 and one-half percent; beginning on July 1, 1997, the rate shall be 12 percent; beginning on July 1, 1998, the rate shall be 13 and one-half percent; and beginning on July 1, 1999, and thereafter, the rate shall be 15 percent: *Provided,* That the rate shall be seven and one-half percent for any individual who becomes a member of the State Teachers Retirement System for the first time on or after July 1, 2005, or any individual who becomes a member of the State Teachers Retirement System as a result of the voluntary transfer contemplated in §18-7D-1 *et seq.* of this code.

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

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

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

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

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

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

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

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

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

(e) Any other moneys, available and not otherwise expended, which may be appropriated 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.

(a) Every person who is now serving or shall hereafter serve as a judge of any court of record of this state shall pay into the Judges’ Retirement Fund six percent of the salary received by such person out of the State Treasury: *Provided,* That when a judge becomes eligible to receive benefits from such trust fund by actual retirement, no further payment by him or her shall be required, since such employee contribution, in an equal treatment sense, ceases to be required in the other retirement systems of the state, also, only after actual retirement: *Provided, however,* That on and after January 1, 1995, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges’ Retirement Fund nine percent of the salary received by that person: *Provided further,* That consistent with the salary increase granted to judges of courts of record during the 2005 regular legislative session and to changes effectuated in judicial retirement by provisions enacted during the third extraordinary legislative session of 2005, on and after July 1, 2005, every person who is then serving or shall thereafter serve as a judge of any court of record in this state shall pay into the Judges’ Retirement Fund 10 and one-half percent of the salary received by that person: *And provided further,* That on and after July 1, 2013, except as provided in subsection (b) of this section, every person who is then serving or shall thereafter serve as a judge of any court of record in this state and who elects to participate in this retirement system shall pay into the Judges’ Retirement Fund seven percent of the salary received. Any prior occurrence or practice to the contrary, in any way allowing discontinuance of required employee contributions prior to actual retirement under this retirement system, is rejected as erroneous and contrary to legislative intent and as violative of required equal treatment and is hereby nullified and discontinued fully, with the State Auditor to require such contribution in every instance hereafter, except where no contributions are required to be made under any of the provisions of this article.

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

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

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

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

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

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

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

(i) Notwithstanding the provisions in this section for contributions to the fund by participating judges, participating judges shall not make contributions, including concurrent contributions, to the fund during any given fiscal year in which the fund’s most recently calculated actuarial valuation for funding completed by the Consolidated Public Retirement Board shows the 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.