

1 **H. B. 2358**

2
3 (By Delegate Rodighiero)

4 [Introduced January 12, 2011; referred to the
5 Committee on Pensions and Retirement then Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend and reenact §5-10-18 of the Code of West Virginia,
11 1931, as amended, relating to allowing public employees with
12 fifteen or more years' service who were subject to reduction
13 in force layoffs to pay back retirement benefits they cashed
14 out of the Public Employees Retirement System.

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

16 That §5-10-18 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

19 **§5-10-18. Termination of membership; reentry.**

20 (a) When a member of the retirement system retires or dies, he
21 or she ceases to be a member. When a member leaves the employ of
22 a participating public employer for any other reason, he or she
23 ceases to be a member and forfeits service credited to him or her

1 at that time. If he or she becomes reemployed by a participating
2 public employer he or she ~~shall be~~ is reinstated as a member of the
3 retirement system and his or her credited service last forfeited by
4 him or her ~~shall be~~ is restored to his or her credit: *Provided,*
5 That he or she must be reemployed for a period of one year or
6 longer to have the service restored: *Provided, however,* That he or
7 she returns to the members' deposit fund the amount, if any, he or
8 she withdrew from the fund, together with regular interest on the
9 withdrawn amount from the date of withdrawal to the date of
10 repayment, and that the repayment begins within two years of the
11 return to employment and that the full amount is repaid within five
12 years of the return to employment.

13 (b) The Presteria Center for Mental Health Services, Valley
14 Comprehensive Mental Health Center, Westbrook Health Services and
15 Eastern Panhandle Mental Health Center, and their successors in
16 interest, shall provide for their employees a pension plan in lieu
17 of the Public Employees Retirement System during the existence of
18 the named mental health centers and their successors in interest.

19 (c) The administrative bodies of the Presteria Center for
20 Mental Health Services, Valley Comprehensive Mental Health Center,
21 Westbrook Health Services and Eastern Panhandle Mental Health
22 Center shall, on or before May 1, 1997, give written notice to each
23 employee who is a member of the Public Employees Retirement System
24 of the option to withdraw from or remain in the system. The notice

1 shall include a copy of this section and a statement explaining the
2 member's options regarding membership. The notice shall include a
3 statement in plain language giving a full explanation and actuarial
4 projection figures in support of the explanation regarding the
5 individual member's current account balance, vested and nonvested,
6 and his or her projected return upon remaining in the Public
7 Employees Retirement System until retirement, disability or death,
8 in comparison with the projected return upon withdrawing from the
9 Public Employees Retirement System and joining a private pension
10 plan provided by the Community Mental Health Center and remaining
11 therein until retirement, disability or death. The administrative
12 bodies shall keep in their respective records a permanent record of
13 each employee's signature confirming receipt of the notice.

14 (d) Effective March 1, 2003, and ending ~~the~~ December 31, 2004,
15 any member may purchase credited service previously forfeited by
16 him or her and the credited service ~~shall be~~ is restored to his or
17 her credit: *Provided*, That he or she returns to the members'
18 deposit fund the amount, if any, he or she withdrew from the fund,
19 together with interest on the withdrawn amount from the date of
20 withdrawal to the date of repayment at a rate to be determined by
21 the board. The repayment under this section may be made by lump
22 sum or repaid over a period of time not to exceed sixty months.
23 Where the member elects to repay the required amount other than by
24 lump sum, the member is required to pay interest at the rate

1 determined by the board until all sums are fully repaid.

2 (e) Effective July 1, 2005, and ending ~~the~~ December 31, 2006,
3 any emergency services personnel may purchase service credit for
4 the time period beginning January 1, 1990, and ending December 31,
5 1995: *Provided*, That person was employed as an emergency service
6 person in this state for that time period: *Provided, however*, That
7 any person obtaining service credit under this subsection is
8 required to pay the employee's share and the employer's share upon
9 his or her actual salary for the years in question plus interest at
10 the assumed actuarial rate of return for the plan year being
11 repurchased.

12 (f) Jobs for West Virginia's graduates and their successors in
13 interest shall provide a pension plan in lieu of the Public
14 Employees Retirement System for employees hired on or after July 1,
15 2005.

16 (g) Wetzel County Hospital and their successors in interest
17 shall provide a pension plan in lieu of the Public Employees
18 Retirement System for employees hired on or after July 1, 2005.

19 (h) Effective July 1, 2011, and ending December 31, 2012, any
20 person who was laid off from employment as the result of reduction
21 in force who at the time of such lay-off had fifteen or more years
22 of service as a member, may pay back any amounts previously
23 withdrawn in order to purchase credited service previously
24 forfeited by him or her and the credited service is restored to

1 his or her credit. Credit is available if he or she returns to the
2 members' deposit fund the amount he or she withdrew from the fund,
3 together with interest on the withdrawn amount from the date of
4 withdrawal to the date of repayment at a rate to be determined by
5 the board. The repayment under this section may be made by lump
6 sum or repaid over a period of time not to exceed sixty months.
7 Where the person elects to repay the required amount other than by
8 lump sum, the member is required to pay interest at the rate
9 determined by the board until all sums are fully repaid.

NOTE: The purpose of this bill is to allow public employees with fifteen or more years' service who were subject to reduction in force layoffs to pay back retirement benefits they cashed out of the Public Employees Retirement System.

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