

H. B. 3008

(By Delegate Perry)
[Introduced February 4, 2011; referred to the
Committee on Pensions and Retirement then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended, relating to adjusting the amount of pay a retired state worker can make while collecting retirement.

Be it enacted by the Legislature of West Virginia:

That §5-10-48 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-48. Reemployment after retirement; options for holder of elected public office.

(a) The Legislature finds that a compelling state interest exists in maintaining an actuarially sound retirement system and that this interest necessitates that certain limitations be placed upon an individual's ability to retire from the system and to then later return to state employment as an employee with a participating public employer while contemporaneously drawing an annuity from the system. The Legislature hereby further finds and declares that the interests of the public are served when persons

1 having retired from public employment are permitted, within certain
2 limitations, to render post-retirement employment in positions of
3 public service, either in elected or appointed capacities. The
4 Legislature further finds and declares that it has the need for
5 qualified employees and that in many cases an employee of the
6 Legislature will retire and be available to return to work for the
7 Legislature as a per diem employee. The Legislature further finds
8 and declares that in many instances these employees have
9 particularly valuable expertise which the Legislature cannot find
10 elsewhere. The Legislature further finds and declares that
11 reemploying these persons on a limited per diem basis after they
12 have retired is not only in the best interests of this state, but
13 has no adverse effect whatsoever upon the actuarial soundness of
14 this particular retirement system.

15 (b) For the purposes of this section: (1) "Regularly employed
16 on a full-time basis" means employment of an individual by a
17 participating public employer, in a position other than as an
18 elected or appointed public official, which normally requires
19 twelve months per year service and/or requires at least one
20 thousand forty hours of service per year in that position; (2)
21 "temporary full-time employment or temporary part-time employment"
22 means employment of an individual on a temporary or provisional
23 basis by a participating public employer, other than as an elected
24 or appointed public official, in a position which does not
25 otherwise render the individual as regularly employed; (3) "former
26 employee of the Legislature" means any person who has retired from

1 employment with the Legislature and who has at least ten years'
2 contributing service with the Legislature; and (4) "reemployed by
3 the Legislature" means a former employee of the Legislature who has
4 been reemployed on a per diem basis not to exceed one hundred
5 seventy-five days per calendar year.

6 (c) In the event a retirant becomes regularly employed on a
7 full-time basis by a participating public employer, payment of his
8 or her annuity shall be suspended during the period of his or her
9 reemployment and he or she shall become a contributing member to
10 the retirement system. If his or her reemployment is for a period
11 of one year or longer, his or her annuity shall be recalculated and
12 he or she shall be granted an increased annuity due to such
13 additional employment, said annuity to be computed according to
14 section twenty-two of this article. A retirant may accept
15 temporary full-time or temporary part-time employment from a
16 participating employer without suspending his or her retirement
17 annuity so long as he or she does not receive annual compensation
18 in excess of ~~\$15,000~~ \$20,000: *Provided*, That a retirant may be
19 employed by the Legislature on a per diem basis without suspension
20 of the retirement annuity if the retirant's annual compensation
21 from the Legislature does not exceed \$20,000.

22 (d) In the event a member retires and is then subsequently
23 elected to a public office or is subsequently appointed to hold an
24 elected public office, or is a former employee of the Legislature
25 who has been reemployed by the Legislature, he or she has the
26 option, notwithstanding subsection (c) of this section, to either:

1 (1) Continue to receive payment of his or her annuity while
2 holding such public office or during any reemployment of a former
3 employee of the Legislature on a per diem basis, in addition to the
4 salary he or she may be entitled to as such office holder or as a
5 per diem reemployed former employee of the Legislature; or

6 (2) Suspend the payment of his or her annuity and become a
7 contributing member of the retirement system as provided in
8 subsection (c) of this section. Notwithstanding the provisions of
9 this subsection, a member who is participating in the system as an
10 elected public official may not retire from his or her elected
11 position and commence to receive an annuity from the system and
12 then be elected or reappointed to the same position unless and
13 until a continuous twelve-month period has passed since his or her
14 retirement from the position: *Provided*, That a former employee of
15 the Legislature may not be reemployed by the Legislature on a per
16 diem basis until at least sixty days after the employee has
17 retired: *Provided, however*, That the limitation on compensation
18 provided by subsection (c) of this section does not apply to the
19 reemployed former employee: *Provided further*, That in no event may
20 reemployment by the Legislature of a per diem employee exceed one
21 hundred seventy-five days per calendar year.

22 (e) A member who is participating in the system simultaneously
23 as both a regular, full-time employee of a participating public
24 employer and as an elected or appointed member of the legislative
25 body of the state or any political subdivision may, upon meeting
26 the age and service requirements of this article, elect to retire

1 from his or her regular full-time state employment and may commence
2 to receive an annuity from the system without terminating his or
3 her position as a member of the legislative body of the state or
4 political subdivision: *Provided*, That the retired member shall
5 not, during the term of his or her retirement and continued service
6 as a member of the legislative body of a political subdivision, be
7 eligible to continue his or her participation as a contributing
8 member of the system and shall not continue to accrue any
9 additional service credit or benefits in the system related to the
10 continued service.

11 (f) Notwithstanding the provisions of section twenty-seven-b
12 of this article, any publicly elected member of the legislative
13 body of any political subdivision or of the State Legislature, the
14 Clerk of the House of Delegates and the Clerk of the Senate may
15 elect to commence receiving in-service retirement distributions
16 from this system upon attaining the age of seventy and one-half
17 years: *Provided*, That the member is eligible to retire under the
18 provisions of section twenty or twenty-one of this article:
19 *Provided, however*, That the member elects to stop actively
20 contributing to the system while receiving such in-service
21 distributions.

22 (g) The provisions of section twenty-two-h of this article are
23 not applicable to the amendments made to this section during the
24 2006 regular session.

NOTE: The purpose of this bill is to adjust the amount of pay
a retired state worker can make while collecting retirement.

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