

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 486**

6 (By Senators Palumbo, Tucker, Laird, Edgell, Foster, Wills,
7 Kessler (Mr. President) and Klempa)

8 _____
9 [Originating in the Committee on Pensions;
10 reported February 14, 2012.]

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13 A BILL to amend and reenact §51-9-4 of the Code of West Virginia,
14 1931, as amended, relating to the judicial retirement system;
15 reducing the contribution rate of judges; authorizing the
16 Consolidated Public Retirement Board to annually establish
17 future participant contribution rates based on the State
18 Actuary's report; and limiting the participant contribution
19 rate to ten and one-half percent of a participant's salary.

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

21 That §51-9-4 of the Code of West Virginia, 1931, as amended,
22 be amended and reenacted, all to read as follows:

23 **ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.**

24 **§51-9-4. Required percentage contributions from salaries; any**
25 **termination of required contributions prior to actual**

1 **retirement disallowed; leased employees; maximum**
2 **allowable and qualified military service; qualifiable**
3 **prosecutorial service.**

4 (a) Every person who is now serving or shall hereafter serve
5 as a judge of any court of record of this state shall pay into the
6 Judges' Retirement Fund six percent of the salary received by such
7 person out of the state Treasury: *Provided*, That when a judge
8 becomes eligible to receive benefits from such trust fund by actual
9 retirement, no further payment by him or her shall be required,
10 since such employee contribution, in an equal treatment sense,
11 ceases to be required in the other retirement systems of the state,
12 also, only after actual retirement: *Provided, however*, That on and
13 after January 1, 1995, every person who is then serving or shall
14 thereafter serve as a judge of any court of record in this state
15 shall pay into the Judges' Retirement Fund nine percent of the
16 salary received by that person: *Provided further*, That consistent
17 with the salary increase granted to judges of courts of record
18 during the 2005 regular legislative session and to changes
19 effectuated in judicial retirement by provisions enacted during the
20 third extraordinary legislative session of 2005, on and after July
21 1, 2005, every person who is then serving or shall thereafter serve
22 as a judge of any court of record in this state shall pay into the
23 Judges' Retirement Fund ten and one-half percent of the salary
24 received by that person: *And provided further*, That on and after
25 July 1, 2012, except as provided in subsection (b) of this section,

1 every person who is then serving or shall thereafter serve as a
2 judge of any court of record in this state and who elects to
3 participate in this retirement system shall pay into the Judges'
4 Retirement Fund seven percent of the salary received. Any prior
5 occurrence or practice to the contrary, in any way allowing
6 discontinuance of required employee contributions prior to actual
7 retirement under this retirement system, is rejected as erroneous
8 and contrary to legislative intent and as violative of required
9 equal treatment and is hereby nullified and discontinued fully,
10 with the State Auditor to require such contribution in every
11 instance hereafter, except where no contributions are required to
12 be made under any of the provisions of this article.

13 (b) On and after July 1, 2013, every person who is serving or
14 shall hereafter serve as a judge of any court of record of this
15 state and who elects to participate in this retirement system shall
16 contribute to the fund an amount determined by the board. This
17 amount will be based on the annual actuarial valuation prepared by
18 the State Actuary: *Provided*, That the contribution will be no less
19 than seven percent or no more than ten and one-half percent of the
20 participant's annual compensation.

21 ~~(b)~~ (c) An individual who is a leased employee shall not be
22 eligible to participate in the system. For purposes of this
23 system, a "leased employee" means any individual who performs
24 services as an independent contractor or pursuant to an agreement
25 with an employee leasing organization or other similar
26 organization. If a question arises regarding the status of an

1 individual as a leased employee, the board has the final power to
2 decide the question.

3 ~~(c)~~ (d) In drawing warrants for the salary checks of judges,
4 the State Auditor shall deduct from the amount of each such salary
5 check six percent thereof, which amount so deducted shall be
6 credited by the Consolidated Public Retirement Board to the trust
7 fund: *Provided*, That on or after January 1, 1995, the amount so
8 deducted and credited shall be nine percent of each such salary
9 check: *Provided, however*, That consistent with the salary increase
10 granted to judges of courts of record during the 2005 regular
11 legislative session and to changes effectuated in judicial
12 retirement by provisions enacted during the third extraordinary
13 legislative session of 2005, on or after July 1, 2005, the amount
14 so deducted and credited shall be ten and one-half percent of each
15 such salary check: *And provided further*, That on and after July 1,
16 2012, except as provided in subsection (b) of this section, the
17 amount so deducted and credited shall be seven percent of each
18 salary check: *And provided further*, That on and after July 1,
19 2013, the amount so deducted and credited will be determined by the
20 Board.

21 ~~(d)~~ (e) Any judge seeking to qualify military service to be
22 claimed as credited service, in allowable aggregate maximum amount
23 up to five years, shall be entitled to be awarded the same without
24 any required payment in respect thereof to the Judges' Retirement
25 Fund.

26 ~~(e)~~ (f) Notwithstanding the preceding provisions of this

1 section, contributions, benefits and service credit with respect to
2 qualified military service shall be provided in accordance with
3 Section 414(u) of the Internal Revenue Code. For purposes of this
4 section, "qualified military service" has the same meaning as in
5 Section 414(u) of the Internal Revenue Code. The Retirement Board
6 is authorized to determine all questions and make all decisions
7 relating to this section and may promulgate rules relating to
8 contributions, benefits and service credit pursuant to the
9 authority granted to the retirement board in section one, article
10 ten-d, chapter five of this code to comply with Section 414(u) of
11 the Internal Revenue Code.

12 ~~(f)~~ (g) Any judge holding office as such on the effective date
13 of the amendments to this article adopted by the Legislature at its
14 1987 regular session who seeks to qualify service as a prosecuting
15 attorney as credited service, which service credit must have been
16 earned prior to the year 1987, shall be required to pay into the
17 Judges' Retirement Fund nine percent of the annual salary which was
18 actually received by such person as prosecuting attorney during the
19 time such prosecutorial service was rendered prior to the year 1987
20 and for which credited service is being sought, together with
21 applicable interest. No judge whose term of office shall commence
22 after the effective date of such amendments to this article shall
23 be eligible to claim any credit for service rendered as a
24 prosecuting attorney as eligible service for retirement benefits
25 under this article, nor shall any time served as a prosecutor after
26 the year 1988 be considered as eligible service for any purposes of

1 this article.

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4 NOTE: The purpose of this bill is to reduce the retirement
5 contribution rate for judges of courts of record and to require the
6 Consolidated Public Retirement Board to establish all future
7 contribution rates based on the State Actuary's valuation report.