

Senate Bill No. 432

(By Senators K. Facemyer, Jenkins, Green, Plymale and Wills)

[Introduced January 26, 2012; referred to the Committee on Pensions; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §15-2A-19 of the Code of West Virginia, 1931, as amended, relating to military service credit applied towards retirement.

Be it enacted by the Legislature of West Virginia:

That §15-2A-19 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-19. Credit toward retirement for member's prior military service; credit toward retirement when member has joined Armed Forces in time of armed conflict; qualified military service.

(a) Any member who has previously served on active military duty is entitled to receive additional credited service for the purpose of determining the amount of retirement award under the

1 provisions of this article for a period equal to the active
2 military duty not to exceed five years, subject to the following:

3 (1) That he or she has been honorably discharged from the
4 Armed Forces;

5 (2) That he or she substantiates by appropriate documentation
6 or evidence his or her period of active military duty;

7 (3) That he or she is receiving no benefits from any other
8 retirement system for his or her active military duty; and

9 (4) That, except with respect to disability retirement pay
10 awarded under this article, he or she has actually served with the
11 agency for twenty years exclusive of his or her active military
12 duty.

13 (b) In addition, any person who, while an employee of the
14 agency, was commissioned, enlisted or inducted into the Armed
15 Forces of the United States or, being a member of the reserve
16 officers' corps, was called to active duty in the Armed Forces
17 between September 1, 1940, and the close of hostilities in World
18 War II, or between June 27, 1950, and the close of the armed
19 conflict in Korea on July 27, 1953, between August 1, 1964, and the
20 close of the armed conflict in Vietnam, or during any other period
21 of armed conflict by the United States, ~~whether sanctioned by a~~
22 ~~declaration of war by Congress or by executive or other order of~~
23 ~~the President~~ is entitled to and shall receive credit on the
24 minimum period of service required by law for retirement pay from

1 the service of the agency, or its predecessor agency, for a period
2 equal to the full time that he or she has or, pursuant to that
3 commission, enlistment, induction or call, shall have served with
4 the Armed Forces subject to the following:

5 (1) That he or she has been honorably discharged from the
6 Armed Forces;

7 (2) That, within ninety days after honorable discharge from
8 the Armed Forces, he or she presented himself or herself to the
9 superintendent and offered to resume service as an active member of
10 the agency; and

11 (3) That he or she has made no voluntary act, whether by
12 reenlistment, waiver of discharge, acceptance of commission or
13 otherwise, to extend or participate in extension of the period of
14 service with the Armed Forces beyond the period of service for
15 which he or she was originally commissioned, enlisted, inducted or
16 called.

17 (c) The total amount of military service credit allowable
18 under this section may not exceed five years for any member of the
19 agency.

20 (d) Notwithstanding the preceding provisions of this section,
21 contributions, benefits and service credit with respect to
22 qualified military service shall be provided in accordance with
23 Section 414 (u) of the Internal Revenue Code. For purposes of this
24 section, "qualified military service" has the same meaning as in

1 Section 414 (u) of the Internal Revenue Code. The board shall
2 determine all questions and make all decisions relating to this
3 section and, pursuant to the authority granted to the board in
4 section one, article ten-d, chapter five of this code, may
5 promulgate rules relating to contributions, benefits and service
6 credit to comply with Section 414 (u) of the Internal Revenue Code.

NOTE: The purpose of this bill is to extend the granting of service credit toward retirement for active military service during a period of armed conflict. The bill would remove the provision that the period of armed conflict considered, to be eligible for service credit, was sanctioned by a declaration of war by Congress or by executive or other order of the President.

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