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Senate Bill No. 470

(By Senators Foster, Edgell, Jenkins, McCabe and Hall)

[Originating in the Committee on Pensions;
reported January 31, 2012.]

A BILL to amend and reenact §18-7A-25 of the Code of West Virginia, 1931, as amended, relating to medical examinations to qualify for a disability annuity under the Teachers Retirement System.

Be it enacted by the Legislature of West Virginia:

That §18-7A-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-25. Eligibility for retirement allowance.

(a) Any member who has attained the age of sixty years or who has had thirty-five years of total service as a teacher in West Virginia, regardless of age, is eligible for an annuity. No new entrant nor present member is eligible for an annuity, however, if either has less than five years of service to his or her credit.

(b) Any member who has attained the age of fifty-five years and who has served thirty years as a teacher in West Virginia is

1 eligible for an annuity.

2 (c) Any member who has served at least thirty but less than
3 thirty-five years as a teacher or nonteaching member in West
4 Virginia and is less than fifty-five years of age is eligible for
5 an annuity, but the annuity shall be the reduced actuarial
6 equivalent of the annuity the member would have received if the
7 member were age fifty-five at the time such annuity was applied
8 for.

9 (d) The request for any annuity shall be made by the member in
10 writing to the retirement board, but in case of retirement for
11 disability, the written request may be made by either the member or
12 the employer.

13 (e) A member is eligible for annuity for disability if he or
14 she satisfies the conditions in either subdivision (1) or (2) of
15 this subsection and meets the conditions of subdivision (3) of this
16 subsection as follows: (1) His or her service as a teacher or
17 nonteaching member in West Virginia must total at least ten years
18 and service as a teacher or nonteaching member must have been
19 terminated because of disability, which disability must have caused
20 absence from service for at least six months before his or her
21 application for disability annuity is approved. (2) His or her
22 service as a teacher or nonteaching member in West Virginia must
23 total at least five years and service as a teacher or nonteaching
24 member must have been terminated because of disability, which

1 disability must have caused absence from service for at least six
2 months before his or her application for disability annuity is
3 approved and the disability is a direct and total result of an act
4 of student violence directed toward the member. (3) An examination
5 by the member's physician and a physician or physicians selected by
6 the retirement board must show that the member is at the time
7 mentally or physically incapacitated for service as a teacher, that
8 for that service the disability is total and likely to be permanent
9 and that he or she should be retired in consequence of the
10 disability.

11 (f) Continuance of the disability of the retired member shall
12 be established by medical examination, as prescribed in subdivision
13 (3), subsection (e) of this section, annually for five years after
14 retirement, and thereafter at such times required by the retirement
15 board. Effective July 1, 1998, a member who has retired because of
16 a disability may select an option of payment under the provisions
17 of section twenty-eight of this article: *Provided*, That any option
18 selected under the provisions of section twenty-eight of this
19 article shall be in all respects the actuarial equivalent of the
20 straight life annuity benefit the disability retiree receives or
21 would receive if the options under said section were not available
22 and that no beneficiary or beneficiaries of the disability
23 annuitant may receive a greater benefit, nor receive any benefit
24 for a greater length of time, than the beneficiary or beneficiaries

1 would have received had the disability retiree not made any
2 election of the options available under said section. In
3 determining the actuarial equivalence, the board shall take into
4 account the life expectancies of the member and the beneficiary:
5 *Provided, however,* That the life expectancies may at the discretion
6 of the board be established by an underwriting medical director of
7 a competent insurance company offering annuities. Payment of the
8 disability annuity provided in this article shall cease immediately
9 if the retirement board finds that the disability of the retired
10 teacher no longer exists, or if the retired teacher refuses to
11 submit to medical examination as required by this section.
12

(NOTE: The purpose of this bill is to require a medical examination performed by a member's selected physician showing the member is mentally or physically totally incapacitated for service and that the disability is likely to be permanent; consistent with current practice by the Consolidated Public Retirement Board.

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