

1 **ENROLLED**

2 **H. B. 2469**

3
4 (By Delegates Perry, Staggers, Swartzmiller,
5 Walker, Barill and Williams)
6

7 [Passed April 13, 2013; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §5-10-48 of the Code of West Virginia,
11 1931, as amended, relating to increasing the cap on earnings
12 during temporary reemployment after retirement.

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

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

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

17 **§5-10-48. Reemployment after retirement; options for holder of**
18 **elected public office.**

19 (a) The Legislature finds that a compelling state interest
20 exists in maintaining an actuarially sound retirement system and
21 that this interest necessitates that certain limitations be placed
22 upon an individual's ability to retire from the system and to then
23 later return to state employment as an employee with a
24 participating public employer while contemporaneously drawing an
25 annuity from the system. The Legislature hereby further finds and

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

16 (b) For the purposes of this section: (1) "Regularly employed
17 on a full-time basis" means employment of an individual by a
18 participating public employer, in a position other than as an
19 elected or appointed public official, which normally requires
20 twelve months per year service and at least one thousand forty
21 hours of service per year in that position; (2) "temporary
22 full-time employment or temporary part-time employment" means
23 employment of an individual on a temporary or provisional basis by
24 a participating public employer, other than as an elected or

1 appointed public official, in a position which does not otherwise
2 render the individual as regularly employed; (3) "former employee
3 of the Legislature" means any person who has retired from
4 employment with the Legislature and who has at least ten years'
5 contributing service with the Legislature; and (4) "reemployed by
6 the Legislature" means a former employee of the Legislature who has
7 been reemployed on a per diem basis not to exceed one hundred
8 seventy-five days per calendar year.

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

1 who has been reemployed by the Legislature, he or she has the
2 option, notwithstanding subsection (c) of this section, to either:

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

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

24 (e) A member who is participating in the system simultaneously

1 as both a regular, full-time employee of a participating public
2 employer and as an elected or appointed member of the legislative
3 body of the state or any political subdivision may, upon meeting
4 the age and service requirements of this article, elect to retire
5 from his or her regular full-time state employment and may commence
6 to receive an annuity from the system without terminating his or
7 her position as a member of the legislative body of the state or
8 political subdivision: *Provided*, That the retired member shall
9 not, during the term of his or her retirement and continued service
10 as a member of the legislative body of a political subdivision, be
11 eligible to continue his or her participation as a contributing
12 member of the system and shall not continue to accrue any
13 additional service credit or benefits in the system related to the
14 continued service.

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

1 distributions.

2 (g) The provisions of section twenty-two-h of this article are
3 not applicable to the amendments made to this section during the
4 2006 Regular Session.