



1 state service credit for members who transferred from the  
2 Teachers' Defined Contribution Retirement System; providing  
3 that a nonteaching member shall not be considered absent from  
4 service while serving as an officer with a statewide  
5 professional teaching association; requiring that members make  
6 written request to the retirement board to receive credit for  
7 service previously credited by the Public Employees Retirement  
8 System; providing that all interest paid or transferred on  
9 service credit from the Public Employees Retirement System be  
10 deposited in the reserve fund; providing that an inactive  
11 member may elect to receive an annuity at age sixty; providing  
12 that the sole primary beneficiary of a member is eligible for  
13 an annuity if the contributor was fifty years old with twenty-  
14 five years service; providing that a refund beneficiary shall  
15 receive the contributor's accumulated contributions up to the  
16 plan year of contributor's death; providing that a refund  
17 beneficiary shall be paid the Teachers' Defined Contribution  
18 Retirement System member contributions transferred plus the  
19 vested portion of employer contributions and any earnings;  
20 providing that an actively contributing member who is at least  
21 sixty years of age is eligible for an annuity; providing that  
22 any member who has thirty years of total service in the state  
23 as a nonteaching member is eligible for an annuity; specifying  
24 that anyone who becomes a new member on or after July 1, 2013,

1 shall have five or more years of actual contributory service  
2 to qualify for retirement; providing that a nonteaching member  
3 who is fifty- five years of age and has served thirty years in  
4 the state is eligible for an annuity; providing that a  
5 nonteaching member is eligible for disability benefits;  
6 providing for the computation of a member's annuity; and  
7 providing for the commencement date of disability annuity  
8 benefits.

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

10 That §18-7A-3, §18-7A-14, §18-7A-17, §18-7A-23, §18-7A-25 and  
11 §18-7A-26 of the Code of West Virginia, 1931, as amended, be  
12 amended and reenacted, and that said code be amended by adding  
13 thereto a new section, designated §18-7A-14c, all to read as  
14 follows:

15 **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

16 **§18-7A-3. Definitions.**

17 As used in this article, unless the context clearly requires  
18 a different meaning:

19 (1) "Accumulated contributions" means all deposits and all  
20 deductions from the gross salary of a contributor plus regular  
21 interest.

22 (2) "Accumulated net benefit" means the aggregate amount of  
23 all benefits paid to or on behalf of a retired member.

24 (3) "Actuarially equivalent" or "of equal actuarial value"

1 means a benefit of equal value computed upon the basis of the  
2 mortality table and interest rates as set and adopted by the  
3 retirement board in accordance with the provisions of this article:  
4 *Provided*, That when used in the context of compliance with the  
5 federal maximum benefit requirements of Section 415 of the Internal  
6 Revenue Code, "actuarially equivalent" shall be computed using the  
7 mortality tables and interest rates required to comply with those  
8 requirements.

9 (4) "Annuities" means the annual retirement payments for life  
10 granted beneficiaries in accordance with this article.

11 (5) "Average final salary" means the average of the five  
12 highest fiscal year salaries earned as a member within the last  
13 fifteen fiscal years of total service credit, including military  
14 service as provided in this article, or if total service is less  
15 than fifteen years, the average annual salary for the period on  
16 which contributions were made: *Provided*, That salaries for  
17 determining benefits during any determination period may not exceed  
18 the maximum compensation allowed as adjusted for cost of living in  
19 accordance with section seven, article ten-d, chapter five of this  
20 code and Section 401(a)(17) of the Internal Revenue Code.

21 (6) "Beneficiary" means the recipient of annuity payments made  
22 under the retirement system.

23 (7) "Contributor" means a member of the retirement system who  
24 has an account in the teachers accumulation fund.

1           (8) "Deposit" means a voluntary payment to his or her account  
2 by a member.

3           (9) "Employer" means the agency of and within the state which  
4 has employed or employs a member.

5           (10) "Employer error" means an omission, misrepresentation or  
6 violation of relevant provisions of the West Virginia Code or of  
7 the West Virginia Code of State Regulations or the relevant  
8 provisions of both the West Virginia Code and of the West Virginia  
9 Code of State Regulations by the participating public employer that  
10 has resulted in an underpayment or overpayment of contributions  
11 required. A deliberate act contrary to the provisions of this  
12 section by a participating public employer does not constitute  
13 employer error.

14           (11) "Employment term" means employment for at least ten  
15 months, a month being defined as twenty employment days.

16           (12) "Gross salary" means the fixed annual or periodic cash  
17 wages paid by a participating public employer to a member for  
18 performing duties for the participating public employer for which  
19 the member was hired. Gross salary shall be allocated and reported  
20 in the fiscal year in which the work was done. Gross salary also  
21 includes retroactive payments made to a member to correct a  
22 clerical error, or made pursuant to a court order or final order of  
23 an administrative agency charged with enforcing federal or state  
24 law pertaining to the member's rights to employment or wages, with

1 all retroactive salary payments to be allocated to and considered  
2 paid in the periods in which the work was or would have been done.  
3 Gross salary does not include lump sum payments for bonuses, early  
4 retirement incentives, severance pay or any other fringe benefit of  
5 any kind including, but not limited to, transportation allowances,  
6 automobiles or automobile allowances, or lump sum payments for  
7 unused, accrued leave of any type or character.

8 (13) "Internal Revenue Code" means the Internal Revenue Code  
9 of 1986, as it has been amended.

10 (14) "Member" means any person who has accumulated  
11 contributions standing to his or her credit in the state Teachers  
12 Retirement System. A member shall remain a member until the  
13 benefits to which he or she is entitled under this article are paid  
14 or forfeited, or until cessation of membership pursuant to section  
15 thirteen of this article.

16 (15) "Members of the administrative staff of the public  
17 schools" means deans of instruction, deans of men, deans of women,  
18 and financial and administrative secretaries.

19 (16) "Members of the extension staff of the public schools"  
20 means every agricultural agent, boys' and girls' club agent and  
21 every member of the agricultural extension staff whose work is not  
22 primarily stenographic, clerical or secretarial.

23 (17) "New entrant" means a teacher who is not a present  
24 teacher.

1           (18) "Nonteaching member" means any person, except a teacher  
2 member, who is regularly employed for full-time service by: (A) Any  
3 county board of education; (B) the State Board of Education; (C)  
4 the Higher Education Policy Commission; (D) the West Virginia  
5 Council for Community and Technical College Education; or (E) a  
6 governing board, as defined in section two, article one, chapter  
7 eighteen-b of this code: *Provided*, That any person whose employment  
8 with the Higher Education Policy Commission, the West Virginia  
9 Council for Community and Technical College Education or a  
10 governing board commences on or after July 1, 1991, is not  
11 considered a nonteaching member.

12           (19) "Plan year" means the twelve-month period commencing on  
13 July 1 and ending the following June 30 of any designated year.

14           (20) "Present member" means a present teacher or nonteacher  
15 who is a member of the retirement system.

16           (21) "Present teacher" means any person who was a teacher  
17 within the thirty-five years beginning July 1, 1934, and whose  
18 membership in the retirement system is currently active.

19           (22) "Prior service" means all service as a teacher completed  
20 prior to July 1, 1941, and all service of a present member who was  
21 employed as a teacher, and did not contribute to a retirement  
22 account because he or she was legally ineligible for membership  
23 during the service.

24           (23) "Public schools" means all publicly supported schools,

1 including colleges and universities in this state.

2       (24) "Refund beneficiary" means the estate of a deceased  
3 contributor or a person he or she has nominated as beneficiary of  
4 his or her contributions by written designation duly executed and  
5 filed with the retirement board.

6       ~~(25) "Refund interest" means interest compounded, according to~~  
7 ~~the formula established in legislative rules, series seven of the~~  
8 ~~Consolidated Public Retirement Board, 162 CSR 7.~~

9       ~~(26)~~ (25) "Regular interest" means interest at four percent  
10 compounded annually, or a higher earnable rate if set forth in the  
11 formula established in legislative rules, series seven of the  
12 Consolidated Public Retirement Board, 162 CSR 7.

13       ~~(27)~~ (26) "Regularly employed for full-time service" means  
14 employment in a regular position or job throughout the employment  
15 term regardless of the number of hours worked or the method of pay.

16       ~~(28)~~ (27) "Required beginning date" means April 1 of the  
17 calendar year following the later of: (A) The calendar year in  
18 which the member attains age seventy and one-half years; or (B) the  
19 calendar year in which the member retires or ceases covered  
20 employment under the system after having attained the age of  
21 seventy and one-half years.

22       (28) "Retirant" means any member who commences an annuity  
23 payable by the retirement system.

24       (29) "Retirement board" means the Consolidated Public



1 Retirement Board created pursuant to article ten-d, chapter five of  
2 this code.

3 ~~(29)~~ (30) "Retirement system" means the state Teachers  
4 Retirement System established by this article.

5 ~~(30)~~ (31) "Teacher member" means the following persons, if  
6 regularly employed for full-time service: (A) Any person employed  
7 for instructional service in the public schools of West Virginia;  
8 (B) principals; (C) public school librarians; (D) superintendents  
9 of schools and assistant county superintendents of schools; (E) any  
10 county school attendance director holding a West Virginia teacher's  
11 certificate; (F) ~~the executive director of the retirement board;~~  
12 ~~(G)~~ members of the research, extension, administrative or library  
13 staffs of the public schools; ~~(H)~~ (G) the State Superintendent of  
14 Schools, heads and assistant heads of the divisions under his or  
15 her supervision, or any other employee under the state  
16 superintendent performing services of an educational nature; ~~(I)~~  
17 (H) employees of the State Board of Education who are performing  
18 services of an educational nature; ~~(J)~~ (I) any person employed in a  
19 nonteaching capacity by the State Board of Education, any county  
20 board of education, the State Department of Education or the State  
21 Teachers Retirement Board, if that person was formerly employed as  
22 a teacher in the public schools; ~~(K)~~ (J) all classroom teachers,  
23 principals and educational administrators in schools under the  
24 supervision of the Division of Corrections, the Division of Health

1 or the Division of Human Services; ~~(L)~~(K) an employee of the State  
2 Board of School Finance, if that person was formerly employed as a  
3 teacher in the public schools; and ~~(M)~~(L) any person designated as  
4 a 21st Century Learner Fellow pursuant to section eleven, article  
5 three, chapter eighteen-a of this code who elects to remain a  
6 member of the State Teachers Retirement System provided in this  
7 article.

8 ~~(31)~~ (32) "Total service" means all service as a teacher or  
9 nonteacher while a member of the retirement system since last  
10 becoming a member and, in addition thereto, credit for prior  
11 service, if any.

12 Age in excess of seventy years shall be considered to be  
13 seventy years.

14 **§18-7A-14. Contributions by members; contributions by employers;**  
15 **correction of errors; forfeitures.**

16 (a) At the end of each month every member of the retirement  
17 system shall contribute six percent of that member's monthly gross  
18 salary to the retirement board: *Provided*, That any member employed  
19 by a state institution of higher education shall contribute on the  
20 member's full earnable compensation, unless otherwise provided in  
21 section fourteen-a of this article. The sums are due the state  
22 Teachers Retirement System at the end of each calendar month in  
23 arrears and shall be paid not later than fifteen days following the  
24 end of the calendar month. Each remittance shall be accompanied by

1 a detailed summary of the sums withheld from the compensation of  
2 each member for that month on forms, either paper or electronic,  
3 provided by the State Teachers Retirement System for that purpose.

4 (b) Annually, the contributions of each member shall be  
5 credited to the member's account in the State Teachers Retirement  
6 System Fund. The contributions shall be deducted from the salaries  
7 of the members as prescribed in this section and every member shall  
8 be considered to have given consent to the deductions. No  
9 deductions, however, shall be made from the earnable compensation  
10 of any member who retired because of age or service and then  
11 resumed service unless as provided in section thirteen-a of this  
12 article.

13 (c) The aggregate of employer contributions, due and payable  
14 under this article, shall equal annually the total deductions from  
15 the gross salary of members required by this section. Beginning  
16 July 1, 1994, the rate shall be seven and one-half percent;  
17 beginning on July 1, 1995, the rate shall be nine percent;  
18 beginning on July 1, 1996, the rate shall be ten and one-half  
19 percent; beginning on July 1, 1997, the rate shall be twelve  
20 percent; beginning on July 1, 1998, the rate shall be thirteen and  
21 one-half percent; and beginning on July 1, 1999, and thereafter,  
22 the rate shall be fifteen percent: *Provided*, That the rate shall be  
23 seven and one-half percent for any individual who becomes a member  
24 of the State Teachers Retirement System for the first time on or

1 after July 1, 2005, or any individual who becomes a member of the  
2 State Teachers Retirement System as a result of the voluntary  
3 transfer contemplated in article seven-d of this chapter.

4 (d) Payment by an employer to a member of the sum specified in  
5 the employment contract minus the amount of the employee's  
6 deductions shall be considered to be a full discharge of the  
7 employer's contractual obligation as to earnable compensation.

8 (e) Each contributor shall file with the retirement board or  
9 with the employer to be forwarded to the retirement board an  
10 enrollment form showing the contributor's date of birth and other  
11 data needed by the retirement board.

12 ~~(f) If any change or employer error in the records of any  
13 participating public employer or the retirement system results in  
14 any member receiving from the system more or less than he or she  
15 would have been entitled to receive had the records been correct,  
16 the board shall correct the error, and as far as is practicable  
17 shall adjust the payment of the benefit in a manner that the  
18 actuarial equivalent of the benefit to which the member was  
19 correctly entitled shall be paid. Any employer error resulting in  
20 an underpayment to the retirement system may be corrected by the  
21 member remitting the required employee contribution and the  
22 participating public employer remitting the required employer  
23 contribution. Interest shall accumulate in accordance with the  
24 legislative rule, Retirement Board Reinstatement Interest, 162 CSR~~

1 ~~7, and any accumulating interest owed on the employee and employer~~  
2 ~~contributions resulting from the employer error shall be the~~  
3 ~~responsibility of the participating public employer. The~~  
4 ~~participating public employer may remit total payment and the~~  
5 ~~employee reimburse the participating public employer through~~  
6 ~~payroll deduction over a period equivalent to the time period~~  
7 ~~during which the employer error occurred.~~

8       ~~(g)~~ (f) Notwithstanding any other provisions of this article,  
9 forfeitures under the retirement system shall not be applied to  
10 increase the benefits any member would otherwise receive under the  
11 retirement system.

12 **§18-7A-14c. Correction of errors; underpayments; overpayments.**

13       (a) General rule: If any change or employer error in the  
14 records of any employer or the retirement system results in any  
15 member, retirant or beneficiary receiving from the plan more or  
16 less than he or she would have been entitled to receive had the  
17 records been correct, the retirement board shall correct the error.  
18 If correction of the error occurs after the effective retirement  
19 date of a retirant, and as far as is practicable, the retirement  
20 board shall adjust the payment of the benefit in a manner that the  
21 actuarial equivalent of the benefit to which the retirant was  
22 correctly entitled shall be paid.

23       (b) Underpayments: Any error resulting in an underpayment to  
24 the retirement system of required contributions may be corrected by

1 the member or retirant remitting the required member contribution  
2 and the employer remitting the required employer contribution.  
3 Interest shall accumulate in accordance with the Legislative Rule  
4 162 CSR 7 concerning retirement board refund, reinstatement,  
5 retroactive service, loan and employer error interest factors and  
6 any accumulating interest owed on the member and employer  
7 contributions resulting from an employer error shall be the  
8 responsibility of the employer. The employer may remit total  
9 payment and the member reimburse the employer through payroll  
10 deduction over a period equivalent to the time period during which  
11 the employer error occurred. If the correction of an error  
12 involving an underpayment of required contributions to the  
13 retirement system will result in increased payments to a retirant,  
14 including increases to payments already made, any adjustments shall  
15 be made only after the retirement board receives full payment of  
16 all required member and employer contributions, including interest.

17 (c) Overpayments: (1) When mistaken or excess employer  
18 contributions, including any overpayments, have been made to the  
19 retirement system by an employer, due to error or other reason, the  
20 retirement board shall credit the employer with an amount equal to  
21 the erroneous contributions, to be offset against the employer's  
22 future liability for employer contributions to the retirement  
23 system. Earnings or interest shall not be credited to the employer.

24 (2) When mistaken or excess member contributions, including

1 any overpayments, have been made to the retirement system, due to  
2 error or other reason, the retirement board shall have sole  
3 authority for determining the means of return, offset or credit to  
4 or for the benefit of the member of the amounts, and may use any  
5 means authorized or permitted under the provisions of Section  
6 401(a), et seq. of the Internal Revenue Code and guidance issued  
7 thereunder applicable to governmental plans. Alternatively, in its  
8 full and complete discretion, the retirement board may require the  
9 employer to pay the member the amounts as wages, with the  
10 retirement board crediting the employer with a corresponding amount  
11 to offset against its future contributions to the retirement  
12 system: *Provided*, That the wages paid to the member shall not be  
13 considered compensation for any purposes under this article.  
14 Earnings or interest shall not be returned, offset, or credited  
15 under any of the means used by the retirement board for returning  
16 mistaken or excess member contributions, including any  
17 overpayments, to a member.

18 **§18-7A-17. Statement and computation of teachers' service;**  
19 **qualified military service.**

20 (a) Under rules adopted by the retirement board, each teacher  
21 and nonteaching member shall file a detailed statement of his or  
22 her length of service as a teacher or nonteacher for which he or  
23 she claims credit. The Retirement Board shall determine what part  
24 of a year is the equivalent of a year of service. In computing the

1 service, however, it shall credit no period of more than a month's  
2 duration during which a member was absent without pay, nor shall it  
3 credit for more than one year of service performed in any calendar  
4 year.

5 (b) For the purpose of this article, the retirement board  
6 shall grant prior service credit to ~~new entrants and other~~ members  
7 of the retirement system ~~for~~ who were honorably discharged from  
8 active duty service in any of the Armed Forces of the United States  
9 in any period of national emergency within which a federal  
10 Selective Service Act was in effect. For purposes of this section,  
11 "Armed Forces" includes Women's Army Corps, women's appointed  
12 volunteers for emergency service, Army Nurse Corps, SPARS, Women's  
13 Reserve and other similar units officially parts of the military  
14 service of the United States. The military service is considered  
15 equivalent to public school teaching, and the salary equivalent for  
16 each year of that service is the actual salary of the member as a  
17 teacher for his or her first year of teaching after discharge from  
18 military service. Prior service credit for military service shall  
19 not exceed ten years for any one member, nor shall it exceed  
20 twenty-five percent of total service at the time of retirement.  
21 Notwithstanding the preceding provisions of this subsection,  
22 contributions, benefits and service credit with respect to  
23 qualified military service shall be provided in accordance with  
24 Section 414(u) of the Internal Revenue Code. For purposes of this



1 section, "qualified military service" has the same meaning as in  
2 Section 414(u) of the Internal Revenue Code. The Retirement Board  
3 is authorized to determine all questions and make all decisions  
4 relating to this section and, pursuant to the authority granted to  
5 the retirement board in section one, article ten-d, chapter five of  
6 this code, may promulgate rules relating to contributions, benefits  
7 and service credit to comply with Section 414(u) of the Internal  
8 Revenue Code. No military service credit may be used in more than  
9 one retirement system administered by the Consolidated Public  
10 Retirement Board.

11 (c) For service as a teacher in the employment of the federal  
12 government, or a state or territory of the United States, or a  
13 governmental subdivision of that state or territory, the retirement  
14 board shall grant credit to the member: *Provided*, That the member  
15 shall pay to the system ~~double the amount he or she contributed~~  
16 twelve percent of that member's gross salary earned during the  
17 first full year of current employment whether a member of the  
18 Teachers' Retirement System or the Teachers' Defined Contribution  
19 Retirement System, times the number of years for which credit is  
20 granted, plus interest at a rate to be determined by the retirement  
21 board. The interest shall be deposited in the reserve fund and  
22 service credit granted at the time of retirement shall not exceed  
23 the lesser of ten years or fifty percent of the member's total  
24 service as a teacher in West Virginia. Any ~~transfer~~ purchase of

1 out-of-state service, as provided in this article, shall not be  
2 used to establish eligibility for a retirement allowance and the  
3 retirement board shall grant credit for the ~~transferred~~ purchased  
4 service as additional service only: *Provided, however,* That a  
5 ~~transfer~~ purchase of out-of-state service is prohibited if the  
6 service is used to obtain a retirement benefit from another  
7 retirement system: *Provided further,* That salaries paid to members  
8 for service prior to entrance into the retirement system shall not  
9 be used to compute the average final salary of the member under the  
10 retirement system.

11 ~~(d) Service credit for members or retired members shall not be~~  
12 ~~denied on the basis of minimum income rules promulgated by the~~  
13 ~~Teachers' Retirement Board: *Provided,* That the member or retired~~  
14 ~~member shall pay to the system the amount he or she would have~~  
15 ~~contributed during the year or years of public school service for~~  
16 ~~which credit was denied as a result of the minimum income rules of~~  
17 ~~the Teachers Retirement Board.~~

18 ~~(e)~~ (d) No members shall be considered absent from service  
19 while serving as a member or employee of the Legislature of the  
20 State of West Virginia during any duly constituted session of that  
21 body or while serving as an elected member of a county commission  
22 during any duly constituted session of that body.

23 ~~(f)~~ (e) No member shall be considered absent from service as  
24 a teacher or nonteacher while serving as an officer with a

1 statewide professional teaching association, or who has served in  
2 that capacity, and no ~~retired teacher~~ retirant, who served in that  
3 capacity while a member, shall be considered to have been absent  
4 from service as a teacher by reason of that service: *Provided*, That  
5 the period of service credit granted for that service shall not  
6 exceed ten years: *Provided, however*, That a member or ~~retired~~  
7 ~~teacher~~ retirant who is serving or has served as an officer of a  
8 statewide professional teaching association shall make deposits to  
9 the Teachers Retirement ~~Board~~ System, for the time of any absence,  
10 in an amount double the amount which he or she would have  
11 contributed in his or her regular assignment for a like period of  
12 time.

13 ~~(g)~~ (f) The Teachers Retirement ~~Board~~ System shall grant  
14 service credit to any former or present member of the West Virginia  
15 Public Employees Retirement System who has been a contributing  
16 member of the Teachers' Retirement System for more than three  
17 years, for service previously credited by the Public Employees  
18 Retirement System upon his or her written request and: (1) Shall  
19 require the transfer of the member's Public Employees Retirement  
20 System accumulated contributions to the Teachers Retirement System;  
21 or (2) shall require a repayment of the amount withdrawn from the  
22 Public Employees Retirement System, plus interest at a rate to be  
23 determined by the retirement board, compounded annually from the  
24 date of withdrawal to the date of payment, any time prior to the

1 member's effective retirement date: *Provided*, That there shall be  
2 added by the member to the amounts transferred or repaid under this  
3 subsection an amount which shall be sufficient to equal the  
4 contributions he or she would have made had the member been under  
5 the Teachers Retirement System during the period of his or her  
6 membership in the Public Employees Retirement System. ~~plus interest~~  
7 ~~at a rate to be determined by the board compounded annually from~~  
8 ~~the date of withdrawal to the date of payment~~ The All interest paid  
9 or transferred shall be deposited in the reserve fund.

10       ~~(h)~~ (g) For service as a teacher in an elementary or secondary  
11 parochial school, located within this state and fully accredited by  
12 the West Virginia Department of Education, the retirement board  
13 shall grant credit to the member: *Provided*, That the member shall  
14 pay to the system ~~double the amount contributed~~ twelve percent of  
15 that member's gross salary earned during the first full year of  
16 current employment whether a member of the Teachers' Retirement  
17 System or the Teachers' Defined Contribution Retirement System,  
18 times the number of years for which credit is granted, plus  
19 interest at a rate to be determined by the retirement board. The  
20 interest shall be deposited in the reserve fund and service granted  
21 at the time of retirement shall not exceed the lesser of ten years  
22 or fifty percent of the member's total service as a teacher in the  
23 West Virginia public school system. Any transfer of parochial  
24 school service, as provided in this section, may not be used to

1 establish eligibility for a retirement allowance and ~~the board~~  
2 retirement board shall grant credit for the transfer as additional  
3 service only: *Provided, however,* That a transfer of parochial  
4 school service is prohibited if the service is used to obtain a  
5 retirement benefit from another retirement system.

6 ~~(i)~~ (h) Active members who previously worked in CETA  
7 (Comprehensive Employment and Training Act) may receive service  
8 credit for time served in that capacity: *Provided,* That in order to  
9 receive service credit under the provisions of this subsection the  
10 following conditions must be met: (1) The member must have moved  
11 from temporary employment with the participating employer to  
12 permanent full-time employment with the participating employer  
13 within one hundred twenty days following the termination of the  
14 member's CETA employment; (2) ~~the board~~ retirement board must  
15 receive evidence that establishes to a reasonable degree of  
16 certainty as determined by the ~~board~~ retirement board that the  
17 member previously worked in CETA; and (3) the member shall pay to  
18 the ~~board~~ retirement board an amount equal to the employer and  
19 employee contribution plus interest at the amount set by the ~~board~~  
20 retirement board for the amount of service credit sought pursuant  
21 to this subsection: *Provided, however,* That the maximum service  
22 credit that may be obtained under the provisions of this subsection  
23 is two years: *Provided further,* That a member must apply and pay  
24 for the service credit allowed under this subsection and provide

1 all necessary documentation by March 31, 2003: *And provided further,*  
2 That the ~~board~~ retirement board shall exercise due diligence to  
3 notify affected employees of the provisions of this subsection.

4 ~~(j)~~ (i) If a member is not eligible for prior service credit  
5 or pension as provided in this article, then his or her prior  
6 service shall not be considered a part of his or her total service.

7 ~~(k)~~ (j) A member who withdrew from membership may regain his  
8 or her former membership rights as specified in section thirteen of  
9 this article only in case he or she has served two years since his  
10 or her last withdrawal.

11 ~~(l)~~ (k) Subject to the provisions of subsections (a) through  
12 (l), inclusive, of this section, the ~~board~~ retirement board shall  
13 verify as soon as practicable the statements of service submitted.  
14 The retirement board shall issue prior service certificates to all  
15 persons eligible for the certificates under the provisions of this  
16 article. The certificates shall state the length of the prior  
17 service credit, but in no case shall the prior service credit  
18 exceed forty years.

19 ~~(m)~~ (l) Notwithstanding any provision of this article to the  
20 contrary, when a member is or has been elected to serve as a member  
21 of the Legislature, and the proper discharge of his or her duties  
22 of public office require that member to be absent from his or her  
23 teaching or administrative duties, the time served in discharge of  
24 his or her duties of the legislative office are credited as time

1 served for purposes of computing service credit: *Provided*, That the  
2 board retirement board may not require any additional contributions  
3 from that member in order for the board retirement board to credit  
4 him or her with the contributing service credit earned while  
5 discharging official legislative duties: *Provided, however*, That  
6 nothing in this section may be construed to relieve the employer  
7 from making the employer contribution at the member's regular  
8 salary rate or rate of pay from that employer on the contributing  
9 service credit earned while the member is discharging his or her  
10 official legislative duties. These employer payments shall commence  
11 as of June 1, 2000: *Provided further*, That any member to which the  
12 provisions of this subsection apply may elect to pay to the board  
13 retirement board an amount equal to what his or her contribution  
14 would have been for those periods of time he or she was serving in  
15 the Legislature. The periods of time upon which the member paid his  
16 or her contribution shall then be included for purposes of  
17 determining his or her final average salary as well as for  
18 determining years of service: *And provided further*, That a member  
19 using the provisions of this subsection is not required to pay  
20 interest on any contributions he or she may decide to make.

21 ~~(n)~~ (m) The Teachers Retirement ~~Board~~ System shall grant  
22 service credit to any former member of the State Police Death,  
23 Disability and Retirement System who has been a contributing member  
24 for more than three years, for service previously credited by the

1 State Police Death, Disability and Retirement System; and: (1)  
2 Shall require the transfer of the member's contributions to the  
3 Teachers Retirement System; or (2) shall require a repayment of the  
4 amount withdrawn any time prior to the member's retirement:  
5 *Provided*, That the member shall add to the amounts transferred or  
6 repaid under this paragraph an amount which is sufficient to equal  
7 the contributions he or she would have made had the member been  
8 under the Teachers Retirement System during the period of his or  
9 her membership in the State Police Death, Disability and Retirement  
10 System plus interest at a rate to be determined by the ~~board~~  
11 retirement board compounded annually from the date of withdrawal to  
12 the date of payment. The interest paid shall be deposited in the  
13 reserve fund.

14 **§18-7A-23. Withdrawal and death benefits.**

15 (a) Benefits upon withdrawal from service prior to retirement  
16 under the provisions of this article shall be as follows:

17 (1) A contributor who withdraws from service for any cause  
18 other than death, disability or retirement shall, upon application,  
19 be paid his or her accumulated contributions up to the end of the  
20 fiscal year preceding the year in which application is made, after  
21 offset of any outstanding loan balance, plus accrued loan interest,  
22 pursuant to section thirty-four of this article, but in no event  
23 shall interest be paid beyond the end of five years following the  
24 year in which the last contribution was made: *Provided*, That the



1 contributor, at the time of application, is then no longer under  
2 contract, verbal or otherwise, to serve as a teacher; or

3       (2) If the ~~contributor~~ inactive member has completed twenty  
4 years of total service, he or she may elect to receive at  
5 ~~retirement~~ age sixty an annuity which shall be computed as provided  
6 in this article: *Provided*, That if the ~~contributor~~ inactive member  
7 has completed at least five, but fewer than twenty, years of total  
8 service in this state, he or she may elect to receive at age sixty-  
9 two an annuity which shall be computed as provided in this article.  
10 The ~~contributor~~ inactive member must notify the retirement board in  
11 writing concerning the election. If the ~~contributor~~ inactive member  
12 has completed fewer than five years of service in this state, he or  
13 she shall be subject to the provisions as outlined in subdivision  
14 (1) of this subsection.

15       (b) Benefits upon the death of a contributor prior to  
16 retirement under the provisions of this article shall be paid as  
17 follows:

18       (1) If the contributor was at least fifty years old and if his  
19 or her total service as a teacher or nonteaching member was at  
20 least twenty-five years at the time of his or her death, then the  
21 surviving spouse of the deceased, provided the spouse is designated  
22 as the sole primary refund beneficiary, is eligible for an annuity  
23 computed as though the deceased were actually a ~~retired teacher~~  
24 retirant at the time of death and had selected a survivorship

1 option which pays the spouse the same monthly amount which would  
2 have been received by the deceased; or

3 (2) If the facts do not permit payment under subdivision (1)  
4 of this subsection, then the following sum shall be paid to the  
5 refund beneficiary of the contributor: (A) The contributor's  
6 accumulated contributions up to the plan year of his or her death  
7 plus an amount equal to his or her ~~employee~~ member contributions.  
8 Provided, That the latter sum shall emanate from the Employer's  
9 Accumulation Fund; and (B) the refund beneficiary of any individual  
10 who became a member of the retirement system as a result of the  
11 voluntary transfer contemplated in article seven-d of this chapter  
12 shall also be paid the member contributions plus the vested portion  
13 of employer contributions made on his or her behalf to the  
14 Teachers' Defined Contribution Retirement System, plus any earnings  
15 thereon, as of June 30, 2008, as stated by the retirement board.

16 **§18-7A-25. Eligibility for retirement allowance.**

17 (a) Any actively contributing member who has attained the age  
18 of sixty years or any member who has ~~had~~ thirty-five years of total  
19 service as a teacher or nonteaching member in West Virginia,  
20 regardless of age, is eligible for an annuity. No new entrant nor  
21 present member is eligible for an annuity, however, if either has  
22 less than five years of service to his or her credit: Provided,  
23 That on and after July 1, 2013, any person who becomes a new member  
24 of this retirement system shall, in qualifying for retirement under

1 this section, have five or more years of contributory service, all  
2 of which shall be actual, contributory ones.

3 (b) Any member who has attained the age of fifty-five years  
4 and who has served thirty years as a teacher or nonteaching member  
5 in West Virginia is eligible for an annuity.

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

13 (d) The request for any annuity shall be made by the member in  
14 writing to the retirement board, but in case of retirement for  
15 disability, the written request may be made by either the member or  
16 the employer.

17 (e) A member is eligible for annuity for disability if he or  
18 she satisfies the conditions in either subdivision (1) or (2) of  
19 this subsection and meets the conditions of subdivision (3) of this  
20 subsection as follows:

21 (1) His or her service as a teacher or nonteaching member in  
22 West Virginia must total at least ten years and service as a  
23 teacher or nonteaching member must have been terminated because of  
24 disability, which disability must have caused absence from service

1 for at least six months before his or her application for  
2 disability annuity is approved.

3       (2) His or her service as a teacher or nonteaching member in  
4 West Virginia must total at least five years and service as a  
5 teacher or nonteaching member must have been terminated because of  
6 disability, which disability must have caused absence from service  
7 for at least six months before his or her application for  
8 disability annuity is approved and the disability is a direct and  
9 total result of an act of student violence directed toward the  
10 member.

11       (3) An examination by a physician or physicians selected by  
12 the retirement board must show that the member is at the time  
13 mentally or physically incapacitated for service as a teacher or  
14 nonteaching member, that for that service the disability is total  
15 and likely to be permanent and that he or she should be retired in  
16 consequence of the disability.

17       (f) Continuance of the disability of the ~~retired member~~  
18 retirant shall be established by medical examination, as prescribed  
19 in subdivision (3), subsection (e) of this section, annually for  
20 five years after retirement, and thereafter at such times required  
21 by the retirement board. Effective July 1, 1998, a member who has  
22 retired because of a disability may select an option of payment  
23 under the provisions of section twenty-eight of this article:  
24 *Provided*, That any option selected under the provisions of section

1 twenty-eight of this article shall be in all respects the actuarial  
2 equivalent of the straight life annuity benefit the disability  
3 ~~retiree~~ retirant receives or would receive if the options under  
4 said section were not available and that no beneficiary or  
5 beneficiaries of the disability ~~annuitant~~ retirant may receive a  
6 greater benefit, nor receive any benefit for a greater length of  
7 time, than the beneficiary or beneficiaries would have received had  
8 the disability ~~retiree~~ retirant not made any election of the  
9 options available under said section. In determining the actuarial  
10 equivalence, the retirement board shall take into account the life  
11 expectancies of the member and the beneficiary: *Provided, however,*  
12 That the life expectancies may at the discretion of the retirement  
13 board be established by an underwriting medical director of a  
14 competent insurance company offering annuities. Payment of the  
15 disability annuity provided in this article shall cease immediately  
16 if the retirement board finds that the disability of the ~~retired~~  
17 ~~teacher~~ retirant no longer exists, or if the ~~retired teacher~~  
18 retirant refuses to submit to medical examination as required by  
19 this section.

20 **§18-7A-26. Computation of annuities.**

21 (a) ~~Annuitants~~ Retirants whose annuities were approved by the  
22 retirement board effective before July 1, 1980, shall be paid the  
23 annuities which were approved by the retirement board.

24 (b) Annuities approved by the retirement board effective after

1 June 30, 1980, shall be computed as provided in this section.

2 (c) Upon establishment of eligibility for a retirement  
3 allowance, a member shall be granted an annuity which shall be ~~the~~  
4 ~~sum of the following~~ two percent of the member's average salary  
5 multiplied by his or her total service credit, subject to reduction  
6 if necessary to comply with the maximum benefit provisions of  
7 Section 415 of the Internal Revenue Code and section twenty-eight-a  
8 of this article.

9 ~~(1) Two percent of the member's average salary multiplied by~~  
10 ~~his or her total service credit as a teacher. In this subdivision~~  
11 subsection "average salary" means the average of the highest annual  
12 salaries received by the member during any five plan years  
13 contained within his or her last fifteen years of total service  
14 credit: *Provided*, That the highest annual salary used in this  
15 calculation for certain members employed by the West Virginia  
16 Higher Education Policy Commission under its control shall be  
17 \$4,800, as provided by section fourteen-a of this article.

18 ~~(2) The actuarial equivalent of the voluntary deposits of the~~  
19 ~~member in his or her individual account up to the time of his or~~  
20 ~~her retirement, with regular interest.~~

21 (d) The disability annuities of all ~~teachers retired for~~  
22 disability disabled retirants shall be based upon a disability  
23 table prepared by a competent actuary approved by the retirement  
24 board. Disability annuity benefits will begin the first day of the

1 month following the latter of: (1) Six months of absence caused by  
2 said disability; (2) date of written report by physician selected  
3 by retirement board stating member is mentally or physically  
4 incapacitated for service and that disability is total and likely  
5 to be permanent; and (3) termination of employment.

6 (e) Upon the death of ~~an annuitant~~ a retirant who qualified  
7 for an annuity as the surviving spouse of an active member or  
8 because of permanent disability, the estate of the deceased or  
9 beneficiary designated for such purpose shall be paid the  
10 difference, if any, between the member's contributions with regular  
11 interest thereon, and the sum of the annuity payments. Upon the  
12 death of a spouse who was named as the member's survivor, a  
13 retirant may elect an annuity option approved by the retirement  
14 board in an amount adjusted on a fair basis to be of equal  
15 actuarial value as the annuity prospectively in effect relative to  
16 the surviving member at the time the new option is elected.

17 (f) All annuities shall be paid in twelve monthly payments. In  
18 computing the monthly payments, fractions of a cent shall be  
19 considered a cent. The monthly payments shall cease with the  
20 payment for the month within which the beneficiary dies, and shall  
21 begin with the payment for the month succeeding the month within  
22 which the ~~annuitant~~ retirant became eligible under this article for  
23 the annuity granted; in no case, however, shall ~~an annuitant~~ a  
24 retirant receive more than four monthly payments which are

1 retroactive after the retirement board receives his or her  
2 application for annuity. The monthly payments shall be made on the  
3 twenty-fifth day of each month, except the month of December, when  
4 the payment shall be made on December 18. If the date of payment  
5 falls on a holiday, Saturday or Sunday, then the payment shall be  
6 made on the preceding workday.

7 (g) In case the retirement board receives data affecting the  
8 approved annuity of a ~~retired teacher~~ retirant, the annuity shall  
9 be changed in accordance with the data, the change being effective  
10 with the payment for the month within which the retirement board  
11 received the new data.

12 (h) Any person who has attained the age of sixty-five and who  
13 has served at least twenty-five years as a teacher or nonteacher  
14 prior to July 1, 1941, is eligible for prior service credit and for  
15 prior service pensions as prescribed in this section.

NOTE: The purpose of this bill is to specify the time period for allocating and reporting gross salary to the retirement board, to add the term "nonteachers" to the definition of "present member", to add a definition for the terms "retire" and "retirement", to add a new section relating to correction of errors, to modify the definition of "teacher member", to require nonteachers to provide a written statement to the retirement board for years of service being claimed, to clarify that members granted prior service credit for qualified military service must be honorably discharged from active duty, to clarify provisions for purchasing out of state service credit for members who transferred from the TDC Plan, to require members to make written request to the retirement board to receive previously credited service from PERS, to require that all interest paid or transferred on previously credited PERS service be deposited in the reserve fund,



to provide that an inactive member may elect to receive an annuity at age 60, to allow a sole primary beneficiary of a member is eligible for an annuity if the contributor was 50 years old with 25 years of service, to allow a refund beneficiary to receive the member's contributions and vested employer contributions plus any earnings transferred from the TDC Plan, to provide that an actively contributing member who is at least age 60 is eligible to receive an annuity, to provide that any member who has 30 years of in state service as a nonteaching member is eligible to receive an annuity, to require that anyone who becomes a new member on or after July 1, 2013 to have at least 5 years of contributory service, to allow a nonteaching member who is 50 and has 30 years of in state service to be eligible for an annuity, to clarify the computation of a member's annuity, to provide for the commencement date of disability annuity benefits, and to make technical corrections.

This bill was recommended for introduction and passage during the 2013 Regular Session of the Legislature by the Consolidated Public Retirement Board.

§18-7A-14c is new; therefore, it has been completely underscored.

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

The Committee on Finance moves to amend the title of the bill to read as follows:

H. B. 2800 - "A BILL to amend and reenact §18-7A-3, §18-7A-14, §18-7A-17, §18-7A-23, §18-7A-25 and §18-7A-26 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §18-7A-14c, all relating to the Teachers' Retirement System; specifying the time period in which a participating public employer allocates and reports gross salary to the retirement board; including nonteachers within the definition of present member; defining retire and retirement; modifying the definition of teacher member; providing for the correction of errors; requiring nonteachers to file a statement with the retirement board detailing the length of service being claimed for retirement credit; requiring that members granted prior service credit for qualified military service shall have been honorably discharged from active duty; providing for purchasing out of state service credit for members who transferred from the Teachers' Defined Contribution Retirement System; providing that a nonteaching member shall not be considered absent from service while serving as an officer with a statewide professional teaching association; requiring that members make written request to the retirement board to receive credit for service previously credited by the Public Employees Retirement System; providing that all interest paid or transferred on service credit from the Public Employees Retirement System be deposited in the reserve fund; providing that an inactive member may elect to receive an annuity at age sixty; providing that the sole primary beneficiary of a member is eligible for an annuity if the

contributor was fifty years old with twenty-five years service; providing that a refund beneficiary shall receive the contributor's accumulated contributions up to the plan year of contributor's death; providing that a refund beneficiary shall be paid the Teachers' Defined Contribution Retirement System member contributions transferred plus the vested portion of employer contributions and any earnings; providing that an actively contributing member who is at least sixty years of age is eligible for an annuity; providing that any member who has thirty years of total service in the state as a nonteaching member is eligible for an annuity; specifying that anyone who becomes a new member on or after July 1, 2013, shall have five or more years of actual contributory service to qualify for retirement; providing that a nonteaching member who is fifty- five years of age and has served thirty years in the state is eligible for an annuity; providing that a nonteaching member is eligible for disability benefits; providing for the computation of a member's annuity; and providing for the commencement date of disability annuity benefits."