

1 **Senate Bill No. 403**

2 (By Senators Palumbo, Chafin and Kessler (Mr. President))

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4 [Introduced; referred to the Committee on Pensions; and then to
5 the Committee on Finance.]
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10 A BILL to amend and reenact §51-9-4 of the Code of West Virginia,
11 1931, as amended, relating to the judicial retirement system;
12 reducing the contribution rate of judges; authorizing the
13 Consolidated Public Retirement Board to annually establish
14 future participant contribution rates based on the State
15 Actuary's report; and limiting the participant contribution
16 rate to ten and one-half percent of a participant's salary.

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

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

20 **ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF RECORD.**

21 **§51-9-4. Required percentage contributions from salaries; any**
22 **termination of required contributions prior to actual**
23 **retirement disallowed; leased employees; military**

1 **service credit; maximum allowable and qualified**
2 **military service; qualifiable prosecutorial service.**

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

1 July 1, 2013, except as provided in subsection (b) of this section,
2 every person who is then serving or shall thereafter serve as a
3 judge of any court of record in this state and who elects to
4 participate in this retirement system shall pay into the Judges'
5 Retirement Fund seven percent of the salary received. Any prior
6 occurrence or practice to the contrary, in any way allowing
7 discontinuance of required employee contributions prior to actual
8 retirement under this retirement system, is rejected as erroneous
9 and contrary to legislative intent and as violative of required
10 equal treatment and is hereby nullified and discontinued fully,
11 with the State Auditor to require such contribution in every
12 instance hereafter, except where no contributions are required to
13 be made under any of the provisions of this article.

14 (b) On and after July 1, 2014, every person who is serving or
15 shall hereafter serve as a judge of any court of record of this
16 state and who elects to participate in this retirement system shall
17 contribute to the fund an amount determined by the board. This
18 amount will be based on the annual actuarial valuation prepared by
19 the State Actuary: *Provided*, That the contribution will be no less
20 than seven percent or no more than ten and one-half percent of the
21 participant's annual compensation.

22 ~~(b)~~ (c) An individual who is a leased employee shall not be
23 eligible to participate in the system. For purposes of this

1 system, a "leased employee" means any individual who performs
2 services as an independent contractor or pursuant to an agreement
3 with an employee leasing organization or other similar
4 organization. If a question arises regarding the status of an
5 individual as a leased employee, the board has the final power to
6 decide the question.

7 ~~(c)~~ (d) In drawing warrants for the salary checks of judges,
8 the State Auditor shall deduct from the amount of each such salary
9 check six percent thereof, which amount so deducted shall be
10 credited by the Consolidated Public Retirement Board to the trust
11 fund: *Provided*, That on or after January 1, 1995, the amount so
12 deducted and credited shall be nine percent of each such salary
13 check: *Provided, however*, That consistent with the salary increase
14 granted to judges of courts of record during the 2005 regular
15 legislative session and to changes effectuated in judicial
16 retirement by provisions enacted during the third extraordinary
17 legislative session of 2005, on or after July 1, 2005, the amount
18 so deducted and credited shall be ten and one-half percent of each
19 such salary check: *Provided further*, That on and after July 1,
20 2013, except as provided in subsection (b) of this section, the
21 amount so deducted and credited shall be seven percent of each
22 salary check: *And provided further*, That on and after July 1,
23 2014, the amount so deducted and credited will be determined by the

1 board.

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

7 ~~(e)~~ (f) Notwithstanding the preceding provisions of this
8 section, contributions, benefits and service credit with respect to
9 qualified military service shall be provided in accordance with
10 Section 414(u) of the Internal Revenue Code. For purposes of this
11 section, "qualified military service" has the same meaning as in
12 Section 414(u) of the Internal Revenue Code. The Retirement Board
13 is authorized to determine all questions and make all decisions
14 relating to this section and may promulgate rules relating to
15 contributions, benefits and service credit pursuant to the
16 authority granted to the retirement board in section one, article
17 ten-d, chapter five of this code to comply with Section 414(u) of
18 the Internal Revenue Code.

19 ~~(f)~~ (g) Any judge holding office as such on the effective date
20 of the amendments to this article adopted by the Legislature at its
21 1987 regular session who seeks to qualify service as a prosecuting
22 attorney as credited service, which service credit must have been
23 earned prior to the year 1987, shall be required to pay into the

1 Judges' Retirement Fund nine percent of the annual salary which was
2 actually received by such person as prosecuting attorney during the
3 time such prosecutorial service was rendered prior to the year 1987
4 and for which credited service is being sought, together with
5 applicable interest. No judge whose term of office shall commence
6 after the effective date of such amendments to this article shall
7 be eligible to claim any credit for service rendered as a
8 prosecuting attorney as eligible service for retirement benefits
9 under this article, nor shall any time served as a prosecutor after
10 the year 1988 be considered as eligible service for any purposes of
11 this article.

(NOTE: The purpose of this bill is to provide a sliding scale for the retirement contribution of judges participating in the judicial retirement system to ensure that the judicial pension system remains fully funded and is a "qualifying system" under federal law.

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

PENSIONS COMMITTEE AMENDMENTS

On page three, section four, after line twenty-three, by inserting the following:

(c) On or after July 1, 2013, and each year thereafter, the annual actuarial valuation prepared by the State Actuary for determination of all participants' contributions and the annual actuarially required contribution prepared by the State Actuary for use by the courts of this State for legislative appropriation shall

be provided to the Legislature's Joint Committee on Government and Finance and the Joint Committee on Pensions and Retirement.

And,

By relettering the remaining subsections.