



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

1 becomes a new member on or after July 1, 2013, shall have five  
2 or more years of contributory service to qualify for  
3 retirement; providing that a nonteaching member who is fifty-  
4 five years of age and has served thirty years in the state is  
5 eligible for an annuity; clarifying that a nonteaching member  
6 is eligible for disability benefits; clarifying the  
7 computation of a member's annuity; providing for the  
8 commencement date of disability annuity benefits; and making  
9 technical corrections.

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

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

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

17 **§18-7A-3. Definitions.**

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

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

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

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

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

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

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

24           (7) "Contributor" means a member of the retirement system who

1 has an account in the teachers accumulation fund.

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

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

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

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

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

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

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

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

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

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

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

1 teacher.

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

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

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

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

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

1           (23) "Public schools" means all publicly supported schools,  
2 including colleges and universities in this state.

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

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

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

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

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

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

1        (29) "Retirement board" means the Consolidated Public  
2 Retirement Board created pursuant to article ten-d, chapter five of  
3 this code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~legislative rule, Retirement Board Reinstatement Interest, 162 CSR~~  
2 ~~7, and any accumulating interest owed on the employee and employer~~  
3 ~~contributions resulting from the employer error shall be the~~  
4 ~~responsibility of the participating public employer. The~~  
5 ~~participating public employer may remit total payment and the~~  
6 ~~employee reimburse the participating public employer through~~  
7 ~~payroll deduction over a period equivalent to the time period~~  
8 ~~during which the employer error occurred.~~

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

13 **§18-7A-14c. Correction of errors; underpayments; overpayments.**

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

24       (b) Underpayments: Any error resulting in an underpayment to

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

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

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

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

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

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

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

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

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

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

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

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

24 ~~(f)~~ (e) No member shall be considered absent from service as

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

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

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

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

1 school service, as provided in this section, may not be used to  
2 establish eligibility for a retirement allowance and ~~the board~~  
3 retirement board shall grant credit for the transfer as additional  
4 service only: *Provided, however,* That a transfer of parochial  
5 school service is prohibited if the service is used to obtain a  
6 retirement benefit from another retirement system.

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

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

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

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

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

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

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

22       ~~(n)~~ (m) The Teachers Retirement ~~Board~~ System shall grant  
23 service credit to any former member of the State Police Death,  
24 Disability and Retirement System who has been a contributing member

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

15 **§18-7A-23. Withdrawal and death benefits.**

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

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

1 year in which the last contribution was made: *Provided*, That the contributor, at the time of application, is then no longer under contract, verbal or otherwise, to serve as a teacher; or

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

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

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

1 retirant at the time of death and had selected a survivorship  
2 option which pays the spouse the same monthly amount which would  
3 have been received by the deceased; or

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

17 **§18-7A-25. Eligibility for retirement allowance.**

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

1 of this retirement system shall, in qualifying for retirement under  
2 this section, have five or more years of contributory service, all  
3 of which shall be actual, contributory ones.

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

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

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

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

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

1 disability, which disability must have caused absence from service  
2 for at least six months before his or her application for  
3 disability annuity is approved.

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

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

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

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

21 **§18-7A-26. Computation of annuities.**

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

1 (b) Annuities approved by the retirement board effective after  
2 June 30, 1980, shall be computed as provided in this section.

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

10 ~~(1) Two percent of the member's average salary multiplied by~~  
11 ~~his or her total service credit as a teacher.~~ In this subdivision  
12 subsection "average salary" means the average of the highest annual  
13 salaries received by the member during any five plan years  
14 contained within his or her last fifteen years of total service  
15 credit: *Provided*, That the highest annual salary used in this  
16 calculation for certain members employed by the West Virginia  
17 Higher Education Policy Commission under its control shall be  
18 \$4,800, as provided by section fourteen-a of this article.

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

22 (d) The disability annuities of all ~~teachers retired for~~  
23 disability disabled retirants shall be based upon a disability  
24 table prepared by a competent actuary approved by the retirement

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

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

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

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

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

13 (h) Any person who has attained the age of sixty-five and who  
14 has served at least twenty-five years as a teacher or nonteacher  
15 prior to July 1, 1941, is eligible for prior service credit and for  
16 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, strike-throughs and underscoring have been omitted.

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