

1 **H. B. 4366**

2  
3 (By Delegates Pethtel, Jones, Canterbury,  
4 Kump, Craig, Lynch and Ellem)

5 (By Request of the Consolidated Public Retirement Board)

6 [Introduced January 28, 2014; referred to the  
7 Committee on Pensions & Retirement then Finance.]

**FISCAL  
NOTE**

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9  
10 A BILL to amend and reenact §5-13-2 and §5-13-4 of the Code of West  
11 Virginia, 1931, as amended, all relating to the Teachers'  
12 Retirement System annuity calculation for reciprocal service  
13 credit; and defining Teachers Final Average Salary; and  
14 providing procedure for annuity calculation for reciprocal  
15 service.

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

17 That §5-13-2 and §5-13-4 of the Code of West Virginia, 1931,  
18 as amended, be amended and reenacted, all to read as follows:

19 **ARTICLE 13. PUBLIC EMPLOYEES' AND TEACHERS' RECIPROCAL SERVICE**  
20 **CREDIT ACT.**

21 **§5-13-2. Definitions.**

22 The following words and phrases as used in this article,  
23 unless a different meaning is clearly indicated by the context,

1 shall have the following meanings:

2       ~~(a) "State system" means the West Virginia Public Employees~~  
3 ~~Retirement System and the state teachers' retirement system.~~

4       ~~(b) "Public system" means the West Virginia Public Employees~~  
5 ~~Retirement System.~~

6       ~~(c) "Teacher system" means the state teachers' retirement~~  
7 ~~system.~~

8       ~~(d) "Member" means a member of either the West Virginia Public~~  
9 ~~Employees Retirement System or the state teachers' retirement~~  
10 ~~system. The term "member" shall not include any person who has~~  
11 ~~retired under either state system.~~

12       ~~(e) "Accumulated contributions" means the sum of the amounts~~  
13 ~~deducted from the compensations of a member and credited to his~~  
14 ~~individual account in a state system, together with interest, if~~  
15 ~~any, credited thereto.~~

16       ~~(f) "Public final average salary" means a member's final~~  
17 ~~average salary computed according to the law governing the public~~  
18 ~~system. In computing his public final average salary, the~~  
19 ~~compensations, if any, received by him for services rendered in~~  
20 ~~positions covered by the teacher system shall be used in the same~~  
21 ~~manner as if the compensations were received for services covered~~  
22 ~~by the public system.~~

23       ~~(g) "Teacher average salary" means a member's average salary~~

1 ~~computed according to the law governing the teacher system. In~~  
2 ~~computing his teacher average salary, the compensations, if any,~~  
3 ~~received by him for services rendered in positions covered by the~~  
4 ~~public system shall be used in the same manner as if the~~  
5 ~~compensations were received for services covered by the teacher~~  
6 ~~system.~~

7 ~~(h) "Reciprocal service credit" for a member of the public~~  
8 ~~system who subsequently becomes a member of the teacher system, or~~  
9 ~~vice versa, means the sum of his credited service in force acquired~~  
10 ~~as a member of the public system and his credit service in force~~  
11 ~~acquired as a member of the teacher system.~~

12 ~~(i) "Annuity" means the annuity payable by a state system.~~

13 (a) "Accumulated contributions" means the sum of the amounts  
14 deducted from the compensation of a member and credited to his or  
15 her individual account in a state system, together with interest,  
16 if any, credited thereto.

17 (b) "Annuity" means the annuity payable by a state system.

18 (c) "Member" means a member of either the West Virginia Public  
19 Employees Retirement System or the State Teachers Retirement  
20 System. The term "member" does not include any person who has  
21 retired under either state system.

22 (d) "Public final average salary" means a member's final  
23 average salary computed according to the law governing the public

1 system. In computing his or her public final average salary, the  
2 compensation, if any, received by the member for services rendered  
3 in positions covered by the teacher system shall be used in the  
4 same manner as if the compensation were received for services  
5 covered by the public system.

6 (e) "Public system" means the West Virginia Public Employees  
7 Retirement System established in article ten, chapter five of this  
8 code.

9 (f) "Reciprocal service credit" for a member of the public  
10 system who subsequently becomes a member of the teacher system, or  
11 vice versa, means the sum of his or her credited service in force  
12 acquired as a member of the public system and his or her credited  
13 service in force acquired as a member of the teacher system.

14 (g) "State system" means the West Virginia Public Employees  
15 Retirement System and the State Teachers Retirement System.

16 (h) "Teacher final average salary" means a member's final  
17 average salary computed according to the law governing the teacher  
18 system. In computing his or her teacher final average salary, the  
19 compensation, if any, received by the member for services rendered  
20 in positions covered by the public system shall be used in the same  
21 manner as if the compensation were received for services covered by  
22 the teacher system.

23 (i) "Teacher system" means the State Teachers Retirement

1 System established in article seven-a, chapter eighteen of this  
2 code.

3 (j) The masculine gender includes the feminine, and words of  
4 the singular number with respect to persons include the plural  
5 number, and vice versa.

6 **§5-13-4. Reciprocal service.**

7 In the event a member leaves a position covered by the public  
8 system and within five years thereafter becomes employed in a  
9 position covered by the teacher system, or a member leaves the  
10 position covered by the teacher system and within five years  
11 thereafter becomes employed in a position covered by the public  
12 system, in either case, the following provisions shall apply.  
13 ~~together with such rules and regulations as the board of trustees~~  
14 ~~of the public system and the retirement board of the teacher system~~  
15 ~~shall from time to time mutually agree upon.~~

16 (a) A member's reciprocal service credit in force shall be  
17 used to satisfy the service requirements for retirement under the  
18 state system from which he or she retires.

19 (b) If a member, who has reciprocal service credit in force,  
20 retires under the public system, he or she shall receive an annuity  
21 payable by the public system and an annuity payable by the teacher  
22 system. His or her public system annuity shall be based upon (1)  
23 the portion of his or her reciprocal service credit acquired as a

1 member of the public system, and (2) his or her public final  
2 average salary. ~~His~~ The member's teacher system annuity shall be  
3 based upon: (1) The portion of his or her reciprocal service credit  
4 acquired as a member of the teacher system; and (2) his or her  
5 teachers' ~~retirement allowance~~ final average salary as provided by  
6 the teachers retirement act. His or her teacher system annuity  
7 shall begin as of the date he or she retires under the public  
8 system, but in no case prior to the date ~~he~~ the member would have  
9 been eligible to retire under the teacher system if all his or her  
10 reciprocal service credit had been acquired as a member of the  
11 teacher system.

12 (c) If a member, who has reciprocal service credit in force,  
13 retires under the teacher system, he or she shall receive an  
14 annuity payable by the teacher system and an annuity payable by the  
15 public system. ~~His~~ The member's teacher system annuity shall be  
16 based upon: (1) The portion of his or her reciprocal service credit  
17 acquired as a member of the teacher system; and (2) his or her  
18 teachers' ~~retirement allowance~~ final average salary as provided by  
19 the teachers retirement act. His or her public system annuity shall  
20 be based upon: (1) The portion of ~~his~~ the reciprocal service credit  
21 acquired as a member of the public system; and (2) his or her  
22 public final average salary. His or her public system annuity shall  
23 begin as of the date he or she retired under the teacher system,

1 but in no case prior to the date he or she would have been eligible  
2 to retire under the public system if all his or her reciprocal  
3 service credit had been acquired as a member of the public system.  
4 ~~The provisions of this section, as amended, shall be~~  
5 ~~retroactive to June eleventh, one thousand nine hundred sixty-five.~~

NOTE: The purpose of this bill is to clarify that the TRS annuity calculation for a member with reciprocal service credit shall be based on the final average salary calculation as provided by TRS; to alphabetize the definitions section; and to make technical corrections throughout.

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