

1 **Senate Bill No. 453**

2 (By Senators Kirkendoll, Cann, Edgell, Carmichael and Plymale)

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5 [Introduced January 30, 2014; referred to the Committee on
6 Pensions; and then to the Committee on Finance.]
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10 A BILL to amend and reenact §18-7A-14, §18-7A-17, §18-7A-18 and
11 §18-7A-18a of the Code of West Virginia, 1931, as amended, all
12 relating to employer remittance and reporting of Teachers
13 Retirement System member contributions to the retirement
14 board; providing procedure for contributions by members and
15 employers; requiring payment of compounded interest by members
16 of the Public Employees Retirement System when granting
17 service credit in the Teachers Retirement System; closing the
18 Teachers Employers Contribution Collection Account on or
19 before June 30, 2014, and transferring any balance of employer
20 contributions to the Teachers Retirement System Fund;
21 depositing employer contributions through state appropriations
22 to the Teachers Retirement System Fund beginning July 1, 2014;
23 and directing additional funds from the Teachers Employers

1 Contribution Collection Account to the Teachers Retirement
2 System Fund.

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

4 That §18-7A-14, §18-7A-17, §18-7A-18 and §18-7A-18a of the
5 Code of West Virginia, 1931, as amended, be amended and reenacted,
6 all to read as follows:

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

8 **§18-7A-14. Contributions by members; contributions by employers;**
9 **forfeitures.**

10 (a) At the end of each month every member of the retirement
11 system shall contribute six percent of that member's monthly gross
12 salary to the retirement board: *Provided*, That any member employed
13 by a state institution of higher education shall contribute on the
14 member's full earnable compensation, unless otherwise provided in
15 section fourteen-a of this article. The sums are due the State
16 Teachers Retirement System at the end of each calendar month ~~in~~
17 ~~arrears~~ and shall be paid not later than fifteen days following the
18 end of the calendar month. Each remittance shall be accompanied by
19 a detailed summary of the sums withheld from the gross compensation
20 of each member for that month on forms, either paper or electronic,
21 provided by the State Teachers Retirement System for that purpose.

22 (b) Annually, the contributions of each member shall be
23 credited to the member's account in the State Teachers Retirement

1 System Fund. The contributions shall be deducted from the gross
2 salaries of the members as prescribed in this section and every
3 member shall be considered to have given consent to the deductions.
4 No deductions, however, shall be made from the earnable
5 compensation of any member who retired because of age or service
6 and then resumed service unless as provided in section thirteen-a
7 of this article.

8 (c) The aggregate of employer contributions, due and payable
9 under this article, shall equal annually the total deductions from
10 the gross salary of members required by this section. Beginning
11 July 1, 1994, the rate shall be seven and one-half percent;
12 beginning on July 1, 1995, the rate shall be nine percent;
13 beginning on July 1, 1996, the rate shall be ten and one-half
14 percent; beginning on July 1, 1997, the rate shall be twelve
15 percent; beginning on July 1, 1998, the rate shall be thirteen and
16 one-half percent; and beginning on July 1, 1999, and thereafter,
17 the rate shall be fifteen percent: *Provided*, That the rate shall
18 be seven and one-half percent for any individual who becomes a
19 member of the State Teachers Retirement System for the first time
20 on or after July 1, 2005, or any individual who becomes a member of
21 the State Teachers Retirement System as a result of the voluntary
22 transfer contemplated in article seven-d of this chapter.

23 (d) Payment by an employer to a member of the sum specified in

1 the employment contract minus the amount of the employee's
2 deductions shall be considered to be a full discharge of the
3 employer's contractual obligation as to earnable compensation.

4 (e) Each ~~contributor~~ employer shall file with the retirement
5 board ~~or with the employer to be forwarded to the retirement board~~
6 ~~an~~ a completed enrollment form showing the contributor's date of
7 birth and other data needed by the retirement board.

8 (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-17. Statement and computation of teachers' service;**
13 **qualified military service.**

14 (a) Under rules adopted by the retirement board, each teacher
15 and nonteaching member shall file a detailed statement of his or
16 her length of service as a teacher or nonteacher for which he or
17 she claims credit. The retirement board shall determine what part
18 of a year is the equivalent of a year of service. In computing the
19 service, however, it shall credit no period of more than a month's
20 duration during which a member was absent without pay, nor shall it
21 credit for more than one year of service performed in any calendar
22 year.

23 (b) For the purpose of this article, the retirement board

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

1 section one, article ten-d, chapter five of this code, may
2 promulgate rules relating to contributions, benefits and service
3 credit to comply with Section 414(u) of the Internal Revenue Code.
4 No military service credit may be used in more than one retirement
5 system administered by the Consolidated Public Retirement Board.

6 (c) For service as a teacher in the employment of the federal
7 government, or a state or territory of the United States, or a
8 governmental subdivision of that state or territory, the retirement
9 board shall grant credit to the member: *Provided*, That the member
10 shall pay to the system twelve percent of that member's gross
11 salary earned during the first full year of current employment
12 whether a member of the Teachers Retirement System or the Teachers'
13 Defined Contribution Retirement System, times the number of years
14 for which credit is granted, plus interest at a rate to be
15 determined by the retirement board. The interest shall be deposited
16 in the reserve fund and service credit granted at the time of
17 retirement shall not exceed the lesser of ten years or fifty
18 percent of the member's total service as a teacher in West
19 Virginia. Any purchase of out-of-state service, as provided in this
20 article, shall not be used to establish eligibility for a
21 retirement allowance and the retirement board shall grant credit
22 for the purchased service as additional service only: *Provided*,
23 *however*, That a purchase of out-of-state service is prohibited if

1 the service is used to obtain a retirement benefit from another
2 retirement system: *Provided further,* That salaries paid to members
3 for service prior to entrance into the retirement system shall not
4 be used to compute the average final salary of the member under the
5 retirement system.

6 (d) No members shall be considered absent from service while
7 serving as a member or employee of the Legislature of the State of
8 West Virginia during any duly constituted session of that body or
9 while serving as an elected member of a county commission during
10 any duly constituted session of that body.

11 (e) No member shall be considered absent from service as a
12 teacher or nonteacher while serving as an officer with a statewide
13 professional teaching association, or who has served in that
14 capacity, and no retirant, who served in that capacity while a
15 member, shall be considered to have been absent from service as a
16 teacher by reason of that service: *Provided,* That the period of
17 service credit granted for that service shall not exceed ten years:
18 *Provided, however,* That a member or retirant who is serving or has
19 served as an officer of a statewide professional teaching
20 association shall make deposits to the Teachers Retirement System,
21 for the time of any absence, in an amount double the amount which
22 he or she would have contributed in his or her regular assignment
23 for a like period of time.

1 (f) The Teachers Retirement System shall grant service credit
2 to any former or present member of the West Virginia Public
3 Employees Retirement System who has been a contributing member of
4 the Teachers Retirement System for more than three years, for
5 service previously credited by the Public Employees Retirement
6 System upon his or her written request and: (1) Shall require the
7 transfer of the member's Public Employees Retirement System
8 accumulated contributions to the Teachers Retirement System; or (2)
9 shall require a repayment of the amount withdrawn from the Public
10 Employees Retirement System, plus interest at a rate to be
11 determined by the retirement board, compounded annually from the
12 date of withdrawal to the date of payment, any time prior to the
13 member's effective retirement date: *Provided*, That there shall be
14 added by the member to the amounts transferred or repaid under this
15 subsection an amount which shall be sufficient to equal the
16 contributions he or she would have made had the member been under
17 the Teachers Retirement System during the period of his or her
18 membership in the Public Employees Retirement System, plus interest
19 at a rate determined by the retirement board, compounded annually
20 from the date the additional contribution would have been made had
21 the member been under the Teachers Retirement System to the date of
22 payment. All interest paid or transferred shall be deposited in the
23 reserve fund.

1 (g) For service as a teacher in an elementary or secondary
2 parochial school, located within this state and fully accredited by
3 the West Virginia Department of Education, the retirement board
4 shall grant credit to the member: *Provided*, That the member shall
5 pay to the system twelve percent of that member's gross salary
6 earned during the first full year of current employment whether a
7 member of the Teachers' Retirement System or the Teachers' Defined
8 Contribution Retirement System, times the number of years for which
9 credit is granted, plus interest at a rate to be determined by the
10 retirement board. The interest shall be deposited in the reserve
11 fund and service granted at the time of retirement shall not exceed
12 the lesser of ten years or fifty percent of the member's total
13 service as a teacher in the West Virginia public school system. Any
14 ~~transfer~~ purchase of parochial school service, as provided in this
15 section, may not be used to establish eligibility for a retirement
16 allowance and retirement board shall grant credit for the ~~transfer~~
17 purchase as additional service only: *Provided, however*, That a
18 ~~transfer~~ purchase of parochial school service is prohibited if the
19 service is used to obtain a retirement benefit from another
20 retirement system.

21 (h) Active members who previously worked in CETA
22 (Comprehensive Employment and Training Act) may receive service
23 credit for time served in that capacity: *Provided*, That in order to

1 receive service credit under the provisions of this subsection the
2 following conditions must be met: (1) The member must have moved
3 from temporary employment with the participating employer to
4 permanent full-time employment with the participating employer
5 within one hundred twenty days following the termination of the
6 member's CETA employment; (2) the retirement board must receive
7 evidence that establishes to a reasonable degree of certainty as
8 determined by the retirement board that the member previously
9 worked in CETA; and (3) the member shall pay to the retirement
10 board an amount equal to the employer and employee contribution
11 plus interest at the amount set by the retirement board for the
12 amount of service credit sought pursuant to this subsection:
13 *Provided, however,* That the maximum service credit that may be
14 obtained under the provisions of this subsection is two years:
15 *Provided further,* That a member must apply and pay for the service
16 credit allowed under this subsection and provide all necessary
17 documentation by March 31, 2003: *And provided further,* That the
18 retirement board shall exercise due diligence to notify affected
19 employees of the provisions of this subsection.

20 (i) If a member is not eligible for prior service credit or
21 pension as provided in this article, then his or her prior service
22 shall not be considered a part of his or her total service.

23 (j) A member who withdrew from membership may regain his or

1 her former membership rights as specified in section thirteen of
2 this article only in case he or she has served two years since his
3 or her last withdrawal.

4 (k) Subject to the provisions of subsections (a) through (l),
5 inclusive, of this section, the retirement board shall verify as
6 soon as practicable the statements of service submitted. The
7 retirement board shall issue prior service certificates to all
8 persons eligible for the certificates under the provisions of this
9 article. The certificates shall state the length of the prior
10 service credit, but in no case shall the prior service credit
11 exceed forty years.

12 (l) Notwithstanding any provision of this article to the
13 contrary, when a member is or has been elected to serve as a member
14 of the Legislature, and the proper discharge of his or her duties
15 of public office require that member to be absent from his or her
16 teaching or administrative duties, the time served in discharge of
17 his or her duties of the legislative office are credited as time
18 served for purposes of computing service credit: *Provided*, That the
19 retirement board may not require any additional contributions from
20 that member in order for the retirement board to credit him or her
21 with the contributing service credit earned while discharging
22 official legislative duties: *Provided, however*, That nothing in
23 this section may be construed to relieve the employer from making

1 the employer contribution at the member's regular salary rate or
2 rate of pay from that employer on the contributing service credit
3 earned while the member is discharging his or her official
4 legislative duties. These employer payments shall commence as of
5 June 1,2000: *Provided further,* That any member to which the
6 provisions of this subsection apply may elect to pay to the
7 retirement board an amount equal to what his or her contribution
8 would have been for those periods of time he or she was serving in
9 the Legislature. The periods of time upon which the member paid his
10 or her contribution shall then be included for purposes of
11 determining his or her final average salary as well as for
12 determining years of service: *And provided further,* That a member
13 using the provisions of this subsection is not required to pay
14 interest on any contributions he or she may decide to make.

15 (m) The Teachers Retirement System shall grant service credit
16 to any former member of the State Police Death, Disability and
17 Retirement System who has been a contributing member for more than
18 three years, for service previously credited by the State Police
19 Death, Disability and Retirement System; and: (1) Shall require the
20 transfer of the member's contributions to the Teachers Retirement
21 System; or (2) shall require a repayment of the amount withdrawn
22 any time prior to the member's retirement: *Provided,* That the
23 member shall add to the amounts transferred or repaid under this

1 paragraph an amount which is sufficient to equal the contributions
2 he or she would have made had the member been under the Teachers
3 Retirement System during the period of his or her membership in the
4 State Police Death, Disability and Retirement System plus interest
5 at a rate to be determined by the retirement board compounded
6 annually from the date of withdrawal to the date of payment. The
7 interest paid shall be deposited in the reserve fund.

8 **§18-7A-18. Teachers Retirement System Fund; transfers.**

9 (a) There is hereby created in the State Treasury a special
10 revenue account designated the Teachers Employers Contribution
11 Collection Account to be administered by the Consolidated Public
12 Retirement Board. The Teachers Employers Contribution Collection
13 Account shall be an interest-bearing account with interest credited
14 to and deposited in the account and transferred in accordance with
15 the provisions of this section: Provided, That on or before June
16 30, 2014, the Consolidated Public Retirement Board shall close the
17 Teachers Employers Contribution Collection Account and transfer any
18 balance in the Teachers Employers Contribution Collection Account
19 to the Teachers Retirement System Fund. After the Teachers
20 Employers Contribution Collection Account is closed, any amounts
21 required to be transferred or remitted to the Teachers Employers
22 Contribution Collection Account shall be transferred or remitted to
23 the Teachers Retirement System Fund.

1 ~~(b) There shall be deposited into the Teachers Employers~~
2 ~~Contribution Collection Account the following:~~

3 ~~(1) Contributions of employers, through state appropriations,~~
4 ~~and such amounts shall be included in the budget bill submitted~~
5 ~~annually by the Governor;~~

6 ~~(2) Beginning on the first day of July, two thousand five,~~
7 ~~contributions from each county in an amount equal to fifteen~~
8 ~~percent of all salary paid in excess of that authorized for minimum~~
9 ~~salaries in sections two and eight-a, article four, chapter~~
10 ~~eighteen-a of this code and any salary equity authorized in section~~
11 ~~five of said article or any county supplement equal to the amount~~
12 ~~distributed for salary equity among the counties for each~~
13 ~~individual who was a member of the Teachers' Retirement System~~
14 ~~before the first day of July, two thousand five: Provided, That the~~
15 ~~rate shall be seven and one-half percent for any individual who~~
16 ~~becomes a member of the Teachers Retirement System for the first~~
17 ~~time on or after the first day of July, two-thousand five or any~~
18 ~~individual who becomes a member of the Teachers' Retirement System~~
19 ~~as a result of the transfer contemplated in article seven-d of this~~
20 ~~chapter;~~

21 ~~(3) The amounts transferred pursuant to section eighteen-a of~~
22 ~~this article; and~~

23 ~~(4) Any other moneys, available and not otherwise expended,~~

1 ~~which may be appropriated or transferred to this account.~~

2 ~~(c) Moneys on deposit in the Teacher Employers Contribution~~
3 ~~Collection Account shall be transferred monthly in the following~~
4 ~~order:~~

5 ~~(1) To the Teachers' Retirement System Fund the amount~~
6 ~~certified by the Consolidated Public Retirement Board as the~~
7 ~~actuarially required contribution; and~~

8 ~~(2) The balance, if any, to the Employee Pension and Health~~
9 ~~Care Benefits Fund established under section thirty-nine, article~~
10 ~~seven-a of this chapter.~~

11 ~~(d)~~ (b) There is hereby continued in the State Treasury a
12 separate irrevocable trust designated the Teachers Retirement
13 System Fund. The Teachers Retirement System Fund shall be invested
14 as provided in section nine-a, article six, chapter twelve of this
15 code.

16 ~~(e)~~ (c) Beginning July 1, 2014, there shall be deposited into
17 the Teachers Retirement System Fund the following:

18 (1) ~~Moneys transferred from the Teachers Employers~~
19 ~~Contribution Collection Account~~ Contributions of employers, through
20 state appropriations, and the amounts shall be included in the
21 Budget Bill submitted annually by the Governor;

22 (2) Beginning on July 1, 2005, contributions from each county
23 in an amount equal to fifteen percent of all salary paid in excess

1 of that authorized for minimum salaries in sections two and
2 eight-a, article four, chapter eighteen-a of this code and any
3 salary equity authorized in section five of said article or any
4 county supplement equal to the amount distributed for salary equity
5 among the counties for each individual who was a member of the
6 Teachers Retirement System before July 1, 2005: *Provided*, That the
7 rate shall be seven and one-half percent for any individual who
8 becomes a member of the Teachers Retirement System for the first
9 time on or after July 1, 2005, or any individual who becomes a
10 member of the Teachers Retirement System as a result of the
11 transfer contemplated in article seven-d of this chapter;

12 ~~(2)~~ (3) Member contributions provided ~~for~~ in section fifteen
13 of this article;

14 ~~(3)~~ (4) Gifts and bequests to the fund and any accretions and
15 accumulations which may properly be paid into and become a part of
16 the fund;

17 ~~(4)~~ (5) Specific appropriations to the fund made by the
18 Legislature;

19 ~~(5)~~ (6) Interest on the investment of any part or parts of the
20 fund; and

21 ~~(6)~~ (7) Any other moneys, available and not otherwise
22 expended, which may be appropriated or transferred to the Teachers
23 Retirement System or the Fund.

1 ~~(f)~~ (d) The Teachers Retirement System Fund shall be the fund
2 from which annuities shall be paid.

3 ~~(g)~~ (e) The Consolidated Public Retirement Board has sole
4 authority to direct and approve the making of any and all fund
5 transfers as provided in this section, anything in this code to the
6 contrary notwithstanding.

7 ~~(h)~~ (f) References in the code to the Teachers Accumulation
8 Fund, the Employers Accumulation Fund, the Benefit Fund, the
9 Reserve Fund and the Expense Fund mean the Teachers Retirement
10 System Fund.

11 **§18-7A-18a. Calculation of allocation to Teachers.**

12 (a) There shall be an annual allocation from the State General
13 Revenue Fund to the Teachers ~~Employers Contribution Collection~~
14 ~~Account~~ Retirement System Fund, created by section eighteen of this
15 article, equal to the actuarially required contribution, reduced by
16 any employer contributions and other allocated amounts.

17 (b) There shall be an additional allocation in each year an
18 amount equal to the total of all irrevocably forfeited amounts in
19 the suspension account established in section eleven, article
20 seven-b of this chapter plus earnings thereon which have been
21 certified to the several contributing employers as irrevocably
22 forfeited in the prior fiscal year and subsequently used by the
23 contributing employers to reduce their total aggregate contribution

1 requirements pursuant to section seventeen, article seven-b of this
2 chapter.

3 ~~(b)~~ (c) The additional allocation provided in this section
4 represents a funding method by which a part of a rational
5 amortization plan will be established to amortize the current
6 unfunded liability of the Teachers Retirement System created by
7 this article. The additional allocations are not and shall not be
8 construed to be moneys which are owed to, nor earned by any
9 employee.

(NOTE: The purpose of this bill is to clarify when TRS member contributions should be remitted and how TRS employers should report member contributions; to specify that PERS members transferring service to TRS shall pay compounded interest on the additional employee contribution owed TRS; to close the Teachers Employers Contribution Collection Account and transfer any balance to the Teachers Retirement System Fund; 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.)