

HB 4365

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2014



**ENROLLED**

**House Bill No. 4365**

(By Delegates Pethel, Jones, Canterbury,  
Kump, Craig, Lynch and Ellem)  
(By Request of the Consolidated Public Retirement Board)



Passed March 5, 2014

In effect ninety days from passage.

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**E N R O L L E D**

**H. B. 4365**

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(BY DELEGATES PETHTEL, JONES, CANTERBURY,  
KUMP, CRAIG, LYNCH AND ELLEM)

**[By Request of the Consolidated Public Retirement Board]**

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AN ACT to amend and reenact §18-7A-14, §18-7A-17, §18-7A-18 and §18-7A-18a of the Code of West Virginia, 1931, as amended, all relating to employer remittance and reporting of Teachers Retirement System member contributions to the retirement board; providing procedure for contributions by members and employers; requiring payment of compounded interest by members of the Public Employees Retirement System when granting service credit in the Teachers Retirement System; closing the Teachers Employers Contribution Collection Account on or before June 30, 2014 and transferring any balance of employer contributions to the Teachers Retirement System Fund; depositing employer contributions through state appropriations to the Teachers Retirement System Fund beginning July 1, 2014; and directing additional funds from the Employers Contribution Collection Account to the Teachers Retirement System Fund.

DE 113

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

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

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

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

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

14 (b) Annually, the contributions of each member shall be  
15 credited to the member's account in the State Teachers  
16 Retirement System Fund. The contributions shall be deducted  
17 from the gross salaries of the members as prescribed in this  
18 section and every member shall be considered to have given  
19 consent to the deductions. No deductions, however, shall be  
20 made from the earnable compensation of any member who  
21 retired because of age or service and then resumed service unless  
22 as provided in section thirteen-a of this article.

23 (c) The aggregate of employer contributions, due and  
24 payable under this article, shall equal annually the total  
25 deductions from the gross salary of members required by this

26 section. Beginning July 1, 1994, the rate shall be seven and  
27 one-half percent; beginning on July 1, 1995, the rate shall be  
28 nine percent; beginning on July 1, 1996, the rate shall be ten and  
29 one-half percent; beginning on July 1, 1997, the rate shall be  
30 twelve percent; beginning on July 1, 1998, the rate shall be  
31 thirteen and one-half percent; and beginning on July 1, 1999, and  
32 thereafter, the rate shall be fifteen percent: *Provided*, That the  
33 rate shall be seven and one-half percent for any individual who  
34 becomes a member of the State Teachers Retirement System for  
35 the first time on or after July 1, 2005, or any individual who  
36 becomes a member of the State Teachers Retirement System as  
37 a result of the voluntary transfer contemplated in article seven-d  
38 of this chapter.

39 (d) Payment by an employer to a member of the sum  
40 specified in the employment contract minus the amount of the  
41 employee's deductions shall be considered to be a full discharge  
42 of the employer's contractual obligation as to earnable  
43 compensation.

44 (e) Each employer shall file with the retirement board a  
45 completed enrollment form showing the contributor's date of  
46 birth and other data needed by the retirement board.

47 (f) Notwithstanding any other provisions of this article,  
48 forfeitures under the retirement system shall not be applied to  
49 increase the benefits any member would otherwise receive under  
50 the retirement system.

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

1 (a) Under rules adopted by the retirement board, each  
2 teacher and nonteaching member shall file a detailed statement  
3 of his or her length of service as a teacher or nonteacher for  
4 which he or she claims credit. The retirement board shall  
5 determine what part of a year is the equivalent of a year of  
6 service. In computing the service, however, it shall credit no

7 period of more than a month's duration during which a member  
8 was absent without pay, nor shall it credit for more than one year  
9 of service performed in any calendar year.

10 (b) For the purpose of this article, the retirement board shall  
11 grant prior service credit to members of the retirement system  
12 who were honorably discharged from active duty service in any  
13 of the Armed Forces of the United States in any period of  
14 national emergency within which a federal Selective Service Act  
15 was in effect. For purposes of this section, "Armed Forces"  
16 includes Women's Army Corps, women's appointed volunteers  
17 for emergency service, Army Nurse Corps, SPARS, Women's  
18 Reserve and other similar units officially parts of the military  
19 service of the United States. The military service is considered  
20 equivalent to public school teaching, and the salary equivalent  
21 for each year of that service is the actual salary of the member as  
22 a teacher for his or her first year of teaching after discharge from  
23 military service. Prior service credit for military service shall not  
24 exceed ten years for any one member, nor shall it exceed  
25 twenty-five percent of total service at the time of retirement.  
26 Notwithstanding the preceding provisions of this subsection,  
27 contributions, benefits and service credit with respect to  
28 qualified military service shall be provided in accordance with  
29 Section 414(u) of the Internal Revenue Code. For purposes of  
30 this section, "qualified military service" has the same meaning  
31 as in Section 414(u) of the Internal Revenue Code. The  
32 retirement board is authorized to determine all questions and  
33 make all decisions relating to this section and, pursuant to the  
34 authority granted to the retirement board in section one, article  
35 ten-d, chapter five of this code, may promulgate rules relating to  
36 contributions, benefits and service credit to comply with Section  
37 414(u) of the Internal Revenue Code. No military service credit  
38 may be used in more than one retirement system administered by  
39 the Consolidated Public Retirement Board.

40 (c) For service as a teacher in the employment of the federal  
41 government, or a state or territory of the United States, or a

42 governmental subdivision of that state or territory, the retirement  
43 board shall grant credit to the member: *Provided*, That the  
44 member shall pay to the system twelve percent of that member's  
45 gross salary earned during the first full year of current  
46 employment whether a member of the Teachers' Retirement  
47 System or the Teachers' Defined Contribution Retirement  
48 System, times the number of years for which credit is granted,  
49 plus interest at a rate to be determined by the retirement board.  
50 The interest shall be deposited in the reserve fund and service  
51 credit granted at the time of retirement shall not exceed the  
52 lesser of ten years or fifty percent of the member's total service  
53 as a teacher in West Virginia. Any purchase of out-of-state  
54 service, as provided in this article, shall not be used to establish  
55 eligibility for a retirement allowance and the retirement board  
56 shall grant credit for the purchased service as additional service  
57 only: *Provided, however*, That a purchase of out-of-state service  
58 is prohibited if the service is used to obtain a retirement benefit  
59 from another retirement system: *Provided further*, That salaries  
60 paid to members for service prior to entrance into the retirement  
61 system shall not be used to compute the average final salary of  
62 the member under the retirement system.

63 (d) No members shall be considered absent from service  
64 while serving as a member or employee of the Legislature of the  
65 State of West Virginia during any duly constituted session of  
66 that body or while serving as an elected member of a county  
67 commission during any duly constituted session of that body.

68 (e) No member shall be considered absent from service as a  
69 teacher or nonteacher while serving as an officer with a  
70 statewide professional teaching association, or who has served  
71 in that capacity, and no retirant, who served in that capacity  
72 while a member, shall be considered to have been absent from  
73 service as a teacher by reason of that service: *Provided*, That the  
74 period of service credit granted for that service shall not exceed  
75 ten years: *Provided, however*, That a member or retirant who is  
76 serving or has served as an officer of a statewide professional

77 teaching association shall make deposits to the Teachers  
78 Retirement System, for the time of any absence, in an amount  
79 double the amount which he or she would have contributed in his  
80 or her regular assignment for a like period of time.

81 (f) The Teachers Retirement System shall grant service  
82 credit to any former or present member of the West Virginia  
83 Public Employees Retirement System who has been a  
84 contributing member of the Teachers Retirement System for  
85 more than three years, for service previously credited by the  
86 Public Employees Retirement System upon his or her written  
87 request and: (1) Shall require the transfer of the member's Public  
88 Employees Retirement System accumulated contributions to the  
89 Teachers Retirement System; or (2) shall require a repayment of  
90 the amount withdrawn from the Public Employees Retirement  
91 System, plus interest at a rate to be determined by the retirement  
92 board, compounded annually from the date of withdrawal to the  
93 date of payment, any time prior to the member's effective  
94 retirement date: *Provided*, That there shall be added by the  
95 member to the amounts transferred or repaid under this  
96 subsection an amount which shall be sufficient to equal the  
97 contributions he or she would have made had the member been  
98 under the Teachers Retirement System during the period of his  
99 or her membership in the Public Employees Retirement System,  
100 plus interest at a rate determined by the retirement board,  
101 compounded annually from the date the additional contribution  
102 would have been made had the member been under the Teachers  
103 Retirement System to the date of payment. All interest paid or  
104 transferred shall be deposited in the reserve fund.

105 (g) For service as a teacher in an elementary or secondary  
106 parochial school, located within this state and fully accredited by  
107 the West Virginia Department of Education, the retirement board  
108 shall grant credit to the member: *Provided*, That the member  
109 shall pay to the system twelve percent of that member's gross  
110 salary earned during the first full year of current employment  
111 whether a member of the Teachers' Retirement System or the

112 Teachers' Defined Contribution Retirement System, times the  
113 number of years for which credit is granted, plus interest at a rate  
114 to be determined by the retirement board. The interest shall be  
115 deposited in the reserve fund and service granted at the time of  
116 retirement shall not exceed the lesser of ten years or fifty percent  
117 of the member's total service as a teacher in the West Virginia  
118 public school system. Any purchase of parochial school service,  
119 as provided in this section, may not be used to establish  
120 eligibility for a retirement allowance and retirement board shall  
121 grant credit for the purchase as additional service only:  
122 *Provided, however,* That a purchase of parochial school service  
123 is prohibited if the service is used to obtain a retirement benefit  
124 from another retirement system.

125 (h) Active members who previously worked in CETA  
126 (Comprehensive Employment and Training Act) may receive  
127 service credit for time served in that capacity: *Provided,* That in  
128 order to receive service credit under the provisions of this  
129 subsection the following conditions must be met: (1) The  
130 member must have moved from temporary employment with the  
131 participating employer to permanent full-time employment with  
132 the participating employer within one hundred twenty days  
133 following the termination of the member's CETA employment;  
134 (2) the retirement board must receive evidence that establishes to  
135 a reasonable degree of certainty as determined by the retirement  
136 board that the member previously worked in CETA; and (3) the  
137 member shall pay to the retirement board an amount equal to the  
138 employer and employee contribution plus interest at the amount  
139 set by the retirement board for the amount of service credit  
140 sought pursuant to this subsection: *Provided, however,* That the  
141 maximum service credit that may be obtained under the  
142 provisions of this subsection is two years: *Provided further,* That  
143 a member must apply and pay for the service credit allowed  
144 under this subsection and provide all necessary documentation  
145 by March 31, 2003: *And provided further,* That the retirement  
146 board shall exercise due diligence to notify affected employees  
147 of the provisions of this subsection.



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

151 (j) A member who withdrew from membership may regain  
152 his or her former membership rights as specified in section  
153 thirteen of this article only in case he or she has served two years  
154 since his or her last withdrawal.

155 (k) Subject to the provisions of subsections (a) through (l),  
156 inclusive, of this section, the retirement board shall verify as  
157 soon as practicable the statements of service submitted. The  
158 retirement board shall issue prior service certificates to all  
159 persons eligible for the certificates under the provisions of this  
160 article. The certificates shall state the length of the prior service  
161 credit, but in no case shall the prior service credit exceed forty  
162 years.

163 (l) Notwithstanding any provision of this article to the  
164 contrary, when a member is or has been elected to serve as a  
165 member of the Legislature, and the proper discharge of his or her  
166 duties of public office require that member to be absent from his  
167 or her teaching or administrative duties, the time served in  
168 discharge of his or her duties of the legislative office are credited  
169 as time served for purposes of computing service credit:  
170 *Provided*, That the retirement board may not require any  
171 additional contributions from that member in order for the  
172 retirement board to credit him or her with the contributing  
173 service credit earned while discharging official legislative duties:  
174 *Provided, however*, That nothing in this section may be  
175 construed to relieve the employer from making the employer  
176 contribution at the member's regular salary rate or rate of pay  
177 from that employer on the contributing service credit earned  
178 while the member is discharging his or her official legislative  
179 duties. These employer payments shall commence as of June 1,  
180 2000: *Provided further*, That any member to which the  
181 provisions of this subsection apply may elect to pay to the

182 retirement board an amount equal to what his or her contribution  
183 would have been for those periods of time he or she was serving  
184 in the Legislature. The periods of time upon which the member  
185 paid his or her contribution shall then be included for purposes  
186 of determining his or her final average salary as well as for  
187 determining years of service: *And provided further*, That a  
188 member using the provisions of this subsection is not required to  
189 pay interest on any contributions he or she may decide to make.

190 (m) The Teachers Retirement System shall grant service  
191 credit to any former member of the State Police Death, Disability  
192 and Retirement System who has been a contributing member for  
193 more than three years, for service previously credited by the  
194 State Police Death, Disability and Retirement System; and: (1)  
195 Shall require the transfer of the member's contributions to the  
196 Teachers Retirement System; or (2) shall require a repayment of  
197 the amount withdrawn any time prior to the member's  
198 retirement: *Provided*, That the member shall add to the amounts  
199 transferred or repaid under this paragraph an amount which is  
200 sufficient to equal the contributions he or she would have made  
201 had the member been under the Teachers Retirement System  
202 during the period of his or her membership in the State Police  
203 Death, Disability and Retirement System plus interest at a rate  
204 to be determined by the retirement board compounded annually  
205 from the date of withdrawal to the date of payment. The interest  
206 paid shall be deposited in the reserve fund.

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

1 (a) There is hereby created in the State Treasury a special  
2 revenue account designated the "Teachers Employers  
3 Contribution Collection Account" to be administered by the  
4 Consolidated Public Retirement Board. The Teachers Employers  
5 Contribution Collection Account shall be an interest-bearing  
6 account with interest credited to and deposited in the account  
7 and transferred in accordance with the provisions of this section:  
8 *Provided*, That on or before June 30, 2014, the Consolidated

9 Public Retirement Board shall close the Teachers Employers  
10 Contribution Collection Account and transfer any balance in the  
11 Teachers Employers Contribution Collection Account to the  
12 Teachers Retirement System Fund. After the Teachers  
13 Employers Contribution Collection Account is closed, any  
14 amounts required to be transferred or remitted to the Teachers  
15 Employers Contribution Collection Account shall be transferred  
16 or remitted to the Teachers Retirement System Fund.

17 (b) There is hereby continued in the State Treasury a  
18 separate irrevocable trust designated the Teachers Retirement  
19 System Fund. The Teachers Retirement System Fund shall be  
20 invested as provided in section nine-a, article six, chapter twelve  
21 of this code.

22 (c) Beginning July 1, 2014, there shall be deposited into the  
23 Teachers Retirement System Fund, the following:

24 (1) Contributions of employers, through state appropriations,  
25 and the amounts shall be included in the budget bill submitted  
26 annually by the Governor;

27 (2) Beginning on July 1, 2005, contributions from each  
28 county in an amount equal to fifteen percent of all salary paid in  
29 excess of that authorized for minimum salaries in sections two  
30 and eight-a, article four, chapter eighteen-a of this code and any  
31 salary equity authorized in section five of said article or any  
32 county supplement equal to the amount distributed for salary  
33 equity among the counties for each individual who was a  
34 member of the Teachers Retirement System before July 1, 2005:  
35 *Provided*, That the rate shall be seven and one-half percent for  
36 any individual who becomes a member of the Teachers  
37 Retirement System for the first time on or after July 1, 2005 or  
38 any individual who becomes a member of the Teachers  
39 Retirement System as a result of the transfer contemplated in  
40 article seven-d of this chapter;

41 (3) Member contributions provided for in section fifteen of  
42 this article;

43 (4) Gifts and bequests to the fund and any accretions and  
44 accumulations which may properly be paid into and become a  
45 part of the fund;

46 (5) Specific appropriations to the fund made by the  
47 Legislature;

48 (6) Interest on the investment of any part or parts of the  
49 fund; and

50 (7) Any other moneys, available and not otherwise  
51 expended, which may be appropriated or transferred to the  
52 Teachers Retirement System or the Fund.

53 (d) The Teachers Retirement System Fund shall be the fund  
54 from which annuities shall be paid.

55 (e) The Consolidated Public Retirement Board has sole  
56 authority to direct and approve the making of any and all fund  
57 transfers as provided in this section, anything in this code to the  
58 contrary notwithstanding.

59 (f) References in the code to the Teachers Accumulation  
60 Fund, the Employers Accumulation Fund, the Benefit Fund, the  
61 Reserve Fund and the Expense Fund mean the Teachers  
62 Retirement System Fund.

**§18-7A-18a. Calculation of allocation to Teachers Retirement  
System Fund.**

1 (a) There shall be an annual allocation from the State  
2 General Revenue Fund to the Teachers Retirement System Fund,  
3 created by section eighteen of this article, equal to the actuarially  
4 required contribution, reduced by any employer contributions  
5 and other allocated amounts.

6           (b) There shall be an additional allocation in each year an  
7 amount equal to the total of all irrevocably forfeited amounts in  
8 the suspension account established in section eleven, article  
9 seven-b of this chapter plus earnings thereon which have been  
10 certified to the several contributing employers as irrevocably  
11 forfeited in the prior fiscal year and subsequently used by the  
12 contributing employers to reduce their total aggregate  
13 contribution requirements pursuant to section seventeen, article  
14 seven-b of this chapter.

15           (c) The additional allocation provided in this section  
16 represents a funding method by which a part of a rational  
17 amortization plan will be established to amortize the current  
18 unfunded liability of the Teachers Retirement System created by  
19 this article. The additional allocations are not and shall not be  
20 construed to be moneys which are owed to, nor earned by any  
21 employee.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Danny Wells*

Chairman, House Committee

*Robert D. Fry*

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Gregory M. Sugg*

Clerk of the House of Delegates

*Joseph M. Minard*

Clerk of the Senate

*Justin Newby*

Speaker of the House of Delegates

*Jeffrey*

President of the Senate

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The within is approved this the 21st

day of March, 2014.

*Earl Ray Tomblin*  
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2014

Time 3:25 pm