

FILED

2001 APR 30 P 4: 43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2080

(By Delegate Michael)

Passed April 14, 2001

In Effect from Passage

FILED

2001 APR 30 P 4: 43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

H. B. 2080

(BY DELEGATE MICHAEL)

[Passed April 14, 2001; in effect from passage.]

AN ACT to amend and reenact section fourteen, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section seventeen, article seven-a, chapter eighteen of said code, all relating to placing corresponding provisions in the teachers retirement system and the public employees retirement system; providing public employee retirement system service credit and teachers retirement system service credit for time worked in CETA (Comprehensive Employment and Training Act) programs; requirements; setting forth maximum attainable service credit; setting forth applicable time period to obtain service credit; specifying cost of service credit; granting service credit in teachers retirement system for former and present members of the state police death, disability and retirement fund in the same manner as is in the public employees retirement system; setting forth conditions to be met for credit; and setting forth required documentation to substantiate time for the service credit.

Be it enacted by the Legislature of West Virginia:

FILED

That section fourteen, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section seventeen, article seven-a, chapter eighteen of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-14. Service credit; retroactive provisions.

1 (a) The board of trustees shall credit each member with the
2 prior service and contributing service to which he or she is
3 entitled based upon such rules as the board of trustees shall
4 from time to time adopt and based upon the following:

5 (1) In no event may less than ten days of service rendered
6 by a member in any calendar month be credited as a month of
7 service: *Provided*, That for employees of the state Legislature
8 whose term of employment is otherwise classified as temporary
9 and who are employed to perform services required by the
10 Legislature for its regular sessions or during the interim
11 between regular sessions and who have been or are so em-
12 ployed during regular sessions or during the interim between
13 regular sessions in seven consecutive calendar years, service
14 credit of one month shall be awarded for each ten days em-
15 ployed in the interim between regular sessions, which interim
16 days shall be cumulatively calculated so that any ten days,
17 regardless of calendar month or year, shall be calculated toward
18 any award of one month of service credit;

19 (2) Except for hourly employees, ten or more months of
20 service credit earned in any calendar year shall be credited as a
21 year of service: *Provided*, That no more than one year of

22 service may be credited to any member for all service rendered
23 by him or her in any calendar year and no days may be carried
24 over by a member from one calendar year to another calendar
25 year where the member has received a full year credit for that
26 year; and

27 (3) Service may be credited to a member who was em-
28 ployed by a political subdivision if his or her employment
29 occurred within a period of thirty years immediately preceding
30 the date the political subdivision became a participating public
31 employer.

32 (b) The board of trustees shall grant service credit to
33 employees of boards of health, the clerk of the House of
34 Delegates and the clerk of the state Senate, or to any former and
35 present member of the state teachers retirement system who
36 have been contributing members for more than three years, for
37 service previously credited by the state teachers retirement
38 system and shall require the transfer of the member's contribu-
39 tions to the system and shall also require a deposit, with
40 interest, of any withdrawals of contributions any time prior to
41 the member's retirement. Repayment of withdrawals shall be as
42 directed by the board of trustees.

43 (c) Court reporters who are acting in an official capacity,
44 although paid by funds other than the county commission or
45 state auditor, may receive prior service credit for time served in
46 that capacity.

47 (d) Active members who previously worked in CETA
48 (Comprehensive Employment and Training Act) may receive
49 service credit for time served in that capacity: *Provided*, That
50 in order to receive service credit under the provisions of this
51 subsection the following conditions must be met: (1) The
52 member must have moved from temporary employment with
53 the participating employer to permanent full time employment

54 with the participating employer within one hundred twenty days
55 following the termination of the member's CETA employment;
56 (2) The board must receive evidence that establishes to a
57 reasonable degree of certainty as determined by the board that
58 the member previously worked in CETA; and (3) The member
59 shall pay to the board an amount equal to the employer and
60 employee contribution plus interest at the amount set by the
61 board for the amount of service credit sought pursuant to this
62 subsection: *Provided, however,* That the maximum service
63 credit that may be obtained under the provisions of this subsec-
64 tion is two years: *Provided further,* That a member must apply
65 and pay for the service credit allowed under this subsection and
66 provide all necessary documentation by the thirty-first day of
67 December, two thousand one.

68 (e) Employees of the state Legislature whose terms of
69 employment are otherwise classified as temporary and who are
70 employed to perform services required by the Legislature for its
71 regular sessions or during the interim time between regular
72 sessions shall receive service credit for the time served in that
73 capacity in accordance with the following. For purposes of this
74 section the term "regular session" means day one through day
75 sixty of a sixty-day legislative session or day one through day
76 thirty of a thirty-day legislative session. Employees of the state
77 Legislature whose term of employment is otherwise classified
78 as temporary and who are employed to perform services
79 required by the Legislature for its regular sessions or during the
80 interim time between regular sessions and who have been or are
81 employed during regular sessions or during the interim time
82 between regular sessions in seven consecutive calendar years,
83 as certified by the clerk of the houses in which the employee
84 served, shall receive service credit of six months for all regular
85 sessions served, as certified by the clerk of the houses in which
86 the employee served, or shall receive service credit of three
87 months for each regular thirty-day session served prior to one
88 thousand nine hundred seventy-one, as certified by the clerk of

89 the houses in which the employee served, and shall receive
90 service credit of one month for each ten days served during the
91 interim between regular sessions, which interim days shall be
92 cumulatively calculated so that any ten days, regardless of
93 calendar month or year, shall be calculated toward any award
94 of one month of service credit: *Provided*, That no more than
95 one year of service may be credited to any temporary legislative
96 employee for all service rendered by that employee in any
97 calendar year and no days may be carried over by a temporary
98 legislative employee from one calendar year to another calendar
99 year where the member has received a full year credit for that
100 year. Service credit awarded for legislative employment
101 pursuant to this section shall be used for the purpose of calcu-
102 lating that member's retirement annuity, pursuant to section
103 twenty-two of this article, and determining eligibility as it
104 relates to credited service, notwithstanding any other provision
105 of this section. Certification of employment for a complete
106 legislative session and for interim days shall be determined by
107 the clerk of the houses in which the employee served, based
108 upon employment records. Service of fifty-five days of a
109 regular session constitutes an absolute presumption of service
110 for a complete legislative session, and service of twenty-seven
111 days of a thirty-day regular session occurring prior to one
112 thousand nine hundred seventy-one constitutes an absolute
113 presumption of service for a complete legislative session. Once
114 a legislative employee has been employed during regular
115 sessions for seven consecutive years or has become a full-time
116 employee of the Legislature, that employee shall receive the
117 service credit provided in this section for all regular and interim
118 sessions, and interim days worked by that employee, as
119 certified by the clerk of the houses in which the employee
120 served, regardless of when the session or interim legislative
121 employment occurred: *Provided, however*, That regular session
122 legislative employment for seven consecutive years may be
123 served in either or both houses of the Legislature.

124 Any employee may purchase retroactive service credit for
125 periods of employment in which contributions were not
126 deducted from the employee's pay. In the purchase of service
127 credit for employment prior to the year one thousand nine
128 hundred eighty-nine in any department, including the Legisla-
129 ture, which operated from the general revenue fund and which
130 was not expressly excluded from budget appropriations in
131 which blanket appropriations were made for the state's share of
132 public employees' retirement coverage in the years prior to the
133 year one thousand nine hundred eighty-nine, the employee shall
134 pay the employee's share. Other employees shall pay the state's
135 share and the employee's share to purchase retroactive service
136 credit. Where an employee purchases service credit for employ-
137 ment which occurred after the year one thousand nine hundred
138 eighty-eight, that employee shall pay for the employee's share
139 and the employer shall pay its share for the purchase of
140 retroactive service credit: *Provided*, That no legislative em-
141 ployee and no current or former member of the Legislature may
142 be required to pay any interest or penalty upon the purchase of
143 retroactive service credit in accordance with the provisions of
144 this section where the employee was not eligible to become a
145 member during the years he or she is purchasing retroactive
146 credit for or had the employee attempted to contribute to the
147 system during the years he or she is purchasing retroactive
148 service credit for and such contributions would have been
149 refused by the board: *Provided, however*, That a legislative
150 employee purchasing retroactive credit under this section does
151 so within twenty-four months of becoming a member of the
152 system or no later than the last day of December, two thousand
153 five, whichever occurs last: *Provided further*, That once a
154 legislative employee becomes a member of the retirement
155 system, he or she may purchase retroactive service credit for
156 any time he or she was employed by the Legislature and did not
157 receive service credit. Any service credit purchased shall be
158 credited as six months for each sixty-day session worked and

159 three months for each thirty-day session worked, and credit for
160 interim employment as provided in this subsection: *And*
161 *provided further*, That this legislative service credit shall also
162 be used for months of service in order to meet the sixty-month
163 requirement for the payments of a temporary legislative
164 employee member's retirement annuity: *And provided further*,
165 That no legislative employee may be required to pay for any
166 service credit beyond the actual time he or she worked regard-
167 less of the service credit which is credited to him or her
168 pursuant to this section: *And provided further*, That any
169 legislative employee may request a recalculation of his or her
170 credited service to comply with the provisions of this section at
171 any time.

172 (f) Notwithstanding any provision to the contrary, the seven
173 consecutive calendar years requirement and the service credit
174 requirements set forth in this section shall be applied retroac-
175 tively to all periods of legislative employment prior to the
176 passage of this section, including any periods of legislative
177 employment occurring before the seven consecutive calendar
178 years referenced in this section.

179 (g) The board of trustees shall grant service credit to any
180 former or present member of the state police death, disability
181 and retirement fund who has been a contributing member of this
182 system for more than three years, for service previously
183 credited by the state police death, disability and retirement fund
184 if the member transfers all of his or her contributions to the
185 state police death, disability and retirement fund to the system
186 created in this article, including repayment of any amounts
187 withdrawn any time from the state police death, disability and
188 retirement fund by the member seeking the transfer allowed in
189 this subsection: *Provided*, That there shall be added by the
190 member to the amounts transferred or repaid under this para-
191 graph an amount which shall be sufficient to equal the contribu-
192 tions he or she would have made had the member been under

193 the public employees retirement system during the period of his
194 or her membership in the state police death, disability and
195 retirement fund plus interest at a rate determined by the board.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS 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 shall file a detailed statement of his or her length of
3 service as a teacher for which he or she claims credit. The
4 retirement board shall determine what part of a year is the
5 equivalent of a year of service. In computing the service,
6 however, it shall credit no period of more than a month's
7 duration during which a member was absent without pay, nor
8 shall it credit for more than one year of service performed in
9 any calendar year.

10 (b) For the purpose of this article, the retirement board shall
11 grant prior service credit to new entrants and other members of
12 the retirement system for service in any of the armed forces of
13 the United States in any period of national emergency within
14 which a federal Selective Service Act was in effect. For
15 purposes of this section, "armed forces" includes women's
16 army corps, women's appointed volunteers for emergency
17 service, army nurse corps, spars, women's reserve and other
18 similar units officially parts of the military service of the United
19 States. The military service is considered equivalent to public
20 school teaching, and the salary equivalent for each year of that
21 service is the actual salary of the member as a teacher for his or
22 her first year of teaching after discharge from military service.
23 Prior service credit for military service shall not exceed ten
24 years for any one member, nor shall it exceed twenty-five
25 percent of total service at the time of retirement. Notwithstand-
26 ing the preceding provisions of this subsection, contributions,

27 benefits and service credit with respect to qualified military
28 service shall be provided in accordance with Section 414(u) of
29 the Internal Revenue Code. For purposes of this section,
30 "qualified military service" has the same meaning as in Section
31 414(u) of the Internal Revenue Code. The retirement board is
32 authorized to determine all questions and make all decisions
33 relating to this section and, pursuant to the authority granted to
34 the retirement board in section one, article ten-d, chapter five of
35 this code, may promulgate rules relating to contributions,
36 benefits and service credit to comply with Section 414(u) of the
37 Internal Revenue Code.

38 (c) For service as a teacher in the employment of the federal
39 government, or a state or territory of the United States, or a
40 governmental subdivision of that state or territory, the retire-
41 ment board shall grant credit to the member: *Provided*, That the
42 member shall pay to the system double the amount he or she
43 contributed during the first full year of current employment,
44 times the number of years for which credit is granted, plus
45 interest at a rate to be determined by the retirement board. The
46 interest shall be deposited in the reserve fund and service credit
47 granted at the time of retirement shall not exceed the lesser of
48 ten years or fifty percent of the member's total service as a
49 teacher in West Virginia. Any transfer of out-of-state service,
50 as provided in this article, shall not be used to establish
51 eligibility for a retirement allowance and the retirement board
52 shall grant credit for the transferred service as additional service
53 only: *Provided, however*, That a transfer of out-of-state service
54 is prohibited if the service is used to obtain a retirement benefit
55 from another retirement system: *Provided further*, That salaries
56 paid to members for service prior to entrance into the retirement
57 system shall not be used to compute the average final salary of
58 the member under the retirement system.

59 (d) Service credit for members or retired members shall not
60 be denied on the basis of minimum income rules promulgated
61 by the teachers retirement board: *Provided*, That the member or

62 retired member shall pay to the system the amount he or she
63 would have contributed during the year or years of public
64 school service for which credit was denied as a result of the
65 minimum income rules of the teachers retirement board.

66 (e) No members shall be considered absent from service
67 while serving as a member or employee of the Legislature of
68 the state of West Virginia during any duly constituted session
69 of that body or while serving as an elected member of a county
70 commission during any duly constituted session of that body.

71 (f) No member shall be considered absent from service as
72 a teacher while serving as an officer with a statewide profes-
73 sional teaching association, or who has served in that capacity,
74 and no retired teacher, who served in that capacity while a
75 member, shall be considered to have been absent from service
76 as a teacher by reason of that service: *Provided*, That the period
77 of service credit granted for that service shall not exceed ten
78 years: *Provided, however*, That a member or retired teacher
79 who is serving or has served as an officer of a statewide
80 professional teaching association shall make deposits to the
81 teachers retirement board, for the time of any absence, in an
82 amount double the amount which he or she would have
83 contributed in his or her regular assignment for a like period of
84 time.

85 (g) The teachers retirement board shall grant service credit
86 to any former or present member of the West Virginia public
87 employees retirement system who has been a contributing
88 member for more than three years, for service previously
89 credited by the public employees retirement system and: (1)
90 Shall require the transfer of the member's contributions to the
91 teachers retirement system; or (2) shall require a repayment of
92 the amount withdrawn any time prior to the member's retire-
93 ment: *Provided*, That there shall be added by the member to the
94 amounts transferred or repaid under this subsection an amount

95 which shall be sufficient to equal the contributions he or she
96 would have made had the member been under the teachers
97 retirement system during the period of his or her membership
98 in the public employees retirement system plus interest at a rate
99 of six percent compounded annually from the date of with-
100 drawal to the date of payment. The interest paid shall be
101 deposited in the reserve fund.

102 (h) For service as a teacher in an elementary or secondary
103 parochial school, located within this state and fully accredited
104 by the West Virginia department of education, the retirement
105 board shall grant credit to the member: *Provided*, That the
106 member shall pay to the system double the amount contributed
107 during the first full year of current employment, times the
108 number of years for which credit is granted, plus interest at a
109 rate to be determined by the retirement board. The interest shall
110 be deposited in the reserve fund and service granted at the time
111 of retirement shall not exceed the lesser of ten years or fifty
112 percent of the member's total service as a teacher in the West
113 Virginia public school system. Any transfer of parochial school
114 service, as provided in this section, may not be used to establish
115 eligibility for a retirement allowance and the board shall grant
116 credit for the transfer as additional service only: *Provided*,
117 *however*, That a transfer of parochial school service is prohib-
118 ited if the service is used to obtain a retirement benefit from
119 another retirement system.

120 (i) Active members who previously worked in CETA
121 (Comprehensive Employment and Training Act) may receive
122 service credit for time served in that capacity: *Provided*, That
123 in order to receive service credit under the provisions of this
124 subsection the following conditions must be met: (1) The
125 member must have moved from temporary employment with
126 the participating employer to permanent full time employment
127 with the participating employer within one hundred twenty days
128 following the termination of the member's CETA employment;

129 (2) The board must receive evidence that establishes to a
130 reasonable degree of certainty as determined by the board that
131 the member previously worked in CETA; and (3) The member
132 shall pay to the board an amount equal to the employer and
133 employee contribution plus interest at the amount set by the
134 board for the amount of service credit sought pursuant to this
135 subsection: *Provided, however,* That the maximum service
136 credit that may be obtained under the provisions of this subsec-
137 tion is two years: *Provided further,* That a member must apply
138 and pay for the service credit allowed under this subsection and
139 provide all necessary documentation by the thirty-first day of
140 December, two thousand one.

141 (j) If a member is not eligible for prior service credit or
142 pension as provided in this article, then his or her prior service
143 shall not be considered a part of his or her total service.

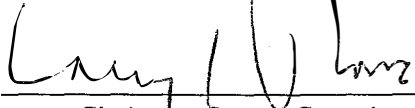
144 (k) A member who withdrew from membership may regain
145 his or her former membership rights as specified in section
146 thirteen of this article only in case he or she has served two
147 years since his or her last withdrawal.

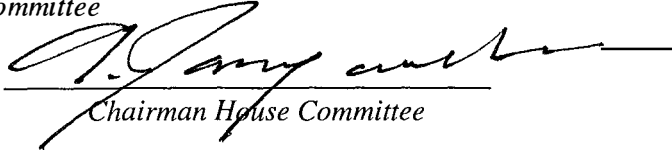
148 (l) Subject to the provisions of subsections (a) through (l),
149 inclusive, of this section, the board shall verify as soon as
150 practicable the statements of service submitted. The retirement
151 board shall issue prior service certificates to all persons eligible
152 for the certificates under the provisions of this article. The
153 certificates shall state the length of the prior service credit, but
154 in no case shall the prior service credit exceed forty years.

155 (m) Notwithstanding any provision of this article to the
156 contrary, when a member is or has been elected to serve as a
157 member of the Legislature, and the proper discharge of his or
158 her duties of public office require that member to be absent
159 from his or her teaching or administrative duties, the time
160 served in discharge of his or her duties of the legislative office

161 are credited as time served for purposes of computing service
162 credit: *Provided*, That the board may not require any additional
163 contributions from that member in order for the board to credit
164 him or her with the contributing service credit earned while
165 discharging official legislative duties: *Provided, however*, That
166 nothing herein may be construed to relieve the employer from
167 making the employer contribution at the member's regular
168 salary rate or rate of pay from that employer on the contributing
169 service credit earned while the member is discharging his or her
170 official legislative duties. These employer payments shall
171 commence as of the first day of June, two thousand: *Provided*
172 *further*, That any member to which the provisions of this
173 subsection apply may elect to pay to the board an amount equal
174 to what his or her contribution would have been for those
175 periods of time he or she was serving in the Legislature. The
176 periods of time upon which the member paid his or her contri-
177 bution shall then be included for purposes of determining his or
178 her final average salary as well as for determining years of
179 service: *And provided further*, That a member utilizing the
180 provisions of this subsection is not required to pay interest on
181 any contributions he or she may decide to make.

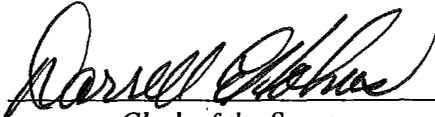
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect from passage.

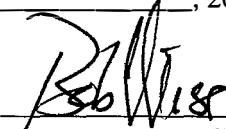

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 27th
day of April, 2001.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 4:35 pm