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OFFICE WEST VIRGINIA SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Seesion, 2001

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OFFICE WEST VIRGINIA SECRETARY OF STATE

ENROLLED Senate Bill No. 712

(By Senators Plymale, Fanning, Prezioso, Edgell, McCabe and Sprouse)

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

AN ACT to amend and reenact section forty-eight, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to West Virginia public employees retirement system; members' reemployment after retirement; and retirement options for holders of elected public office.

Be it enacted by the Legislature of West Virginia:

That section forty-eight, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-48. Reemployment after retirement; options for holder of elected public office.

- 1 The Legislature finds that a compelling state interest
- 2 exists in maintaining an actuarially sound retirement

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system and that this interest necessitates that certain limitations be placed upon an individual's ability to retire from the system and to then later return to state employment as an employee with a participating public employer while contemporaneously drawing an annuity from the system. The Legislature hereby further finds and declares that the interests of the public are served when persons having retired from public employment are permitted, within certain limitations, to render post-retirement employment in positions of public service, either in elected

or appointed capacities.

- 14 (a) For the purposes of this section: (1) "Regularly employed on a full-time basis" means employment of an 15 individual by a participating public employer, in a posi-16 17 tion other than as an elected or appointed public official, which normally requires twelve months per year service 18 and/or requires at least one thousand forty hours of service 19 per year in that position; and (2) "temporary full-time 20 21 employment or temporary part-time employment" means 22 employment of an individual on a temporary or provi-23 sional basis by a participating public employer, other than 24 as an elected or appointed public official, in a position which does not otherwise render the individual as regu-25 26 larly employed.
- 27 (b) In the event a retirant becomes regularly employed on a full-time basis by a participating public employer, 28 payment of his or her annuity shall be suspended during 29 30 the period of his or her reemployment and he or she shall become a contributing member to the retirement system. 31 32 If his or her reemployment is for a period of one year or 33 longer, his or her annuity shall be recalculated and he or she shall be granted an increased annuity due to such 34 35 additional employment, said annuity to be computed according to section twenty-two of this article. A retirant 36 may accept temporary full-time or temporary part-time 37 employment from a participating employer without 38 39 suspending his or her retirement annuity so long as he or

- she does not receive annual compensation in excess of ten thousand dollars.
- 42 (c) In the event a member retires and is then subse-43 quently elected to a public office or is subsequently 44 appointed to hold an elected public office, he or she has 45 the option, notwithstanding subsection (b) of this section,
- 46 to either:
- 47 (1) Continue to receive payment of his or her annuity 48 while holding such public office, in addition to the salary 49 he or she may be entitled to as such office holder; or
- 50 (2) Suspend the payment of his or her annuity and become a contributing member of the retirement system as 51 provided in subsection (b) of this section. Notwithstand-52 ing the provisions of this subsection, a member who is 53 participating in the system as an elected public official 54 55 may not retire from his or her elected position and commence to receive an annuity from the system and then be 56 reappointed to the same position unless and until a 57 continuous six-month period has passed since his or her 58 59 retirement from the position.
- 60 (d) A member who is participating in the system simul-61 taneously as both a regular, full-time employee of a 62 participating public employer and as an elected or appointed member of the legislative body of the state or any 63 64 political subdivision may, upon meeting the age and service requirements of this article, elect to retire from his 65 or her regular full-time state employment and may 66 67 commence to receive an annuity from the system without 68 terminating his or her position as a member of the legisla-69 tive body of the state or political subdivision: Provided, 70 That the retired member shall not, during the term of his 71 or her retirement and continued service as a member of the 72 legislative body of a political subdivision, be eligible to 73 continue his or her participation as a contributing member 74 of the system and shall not continue to accrue any addi-

- tional service credit or benefits in the system related to thecontinued service.
- (e) Notwithstanding the provisions of section twenty-77 seven-b of this article, any publicly elected member of the 78 legislative body of any political subdivision or of the state 79 Legislature, the clerk of the House of Delegates and the 80 clerk of the Senate may elect to commence receiving in-81 82 service retirement distributions from this system upon attaining the age of seventy and one-half years: Provided, 83 84 That the member is eligible to retire under the provisions 85 of section twenty or section twenty-one of this article: Provided, however, That the member elects to stop ac-86 tively contributing to the system while receiving such in-87 service distributions. 88

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.
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Chairman House Committee
Chairman House Commutee
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In effect from passage.
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President of the Senate
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The within is application this the
Day of April ,2001.
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