

S
SB 173

FILED

2006 APR -5 P 6: 24

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2006



ENROLLED

Committee Substitute For

SENATE BILL NO. 173

(By Senator Foster, et al)



PASSED March 11, 2006

In Effect 90 days from Passage

FILED

2006 APR -5 P 6: 24

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 173

(SENATORS FOSTER, BARNES, LANHAM,
MCCABE AND PLYMALE, *original sponsors*)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §5-10-14, §5-10-27 and §5-10-48 of the Code of West Virginia, 1931, as amended, all relating to the Public Employees Retirement System generally; providing service credit for certain temporary legislative employees for retirement purposes; clarifying right of members and former members to select certain beneficiaries for preretirement death annuities; limiting choice of beneficiaries to receive preretirement death annuities for new members only; providing for preretirement death benefit of accumulated contributions to be paid in a lump sum amount to any beneficiary or beneficiaries chosen by a member; providing that the date of membership and date of passage control election of benefits; recognizing exception for certain members who die as a result of active military service; and providing for the reemployment of certain former legislative employees on a per diem basis under certain restrictions without suspension of retirement annuity.

Be it enacted by the Legislature of West Virginia:

That §5-10-14, §5-10-27 and §5-10-48 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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
2 the prior service and contributing service to which he or
3 she is entitled based upon rules adopted by the board of
4 trustees 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
7 month of service: *Provided*, That for employees of the state
8 Legislature whose term of employment is otherwise
9 classified as temporary and who are employed to perform
10 services required by the Legislature for its regular sessions
11 or during the interim between regular sessions and who
12 have been or are so employed during regular sessions or
13 during the interim between regular sessions in seven
14 consecutive calendar years, service credit of one month
15 shall be awarded for each ten days employed in the interim
16 between regular sessions, which interim days shall be
17 cumulatively calculated so that any ten days, regardless of
18 calendar month or year, shall be calculated toward any
19 award of one month of service credit;

20 (2) Except for hourly employees, ten or more months of
21 service credit earned in any calendar year shall be credited
22 as a year of service: *Provided*, That no more than one year
23 of service may be credited to any member for all service
24 rendered by him or her in any calendar year and no days
25 may be carried over by a member from one calendar year
26 to another calendar year where the member has received
27 a full-year credit for that year; and

28 (3) Service may be credited to a member who was
29 employed by a political subdivision if his or her employ-

30 ment occurred within a period of thirty years immediately
31 preceding the date the political subdivision became a
32 participating public employer.

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

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

49 (d) Active members who previously worked in CETA
50 (Comprehensive Employment and Training Act) may
51 receive service credit for time served in that capacity:
52 *Provided*, That in order to receive service credit under the
53 provisions of this subsection the following conditions must
54 be met: (1) The member must have moved from temporary
55 employment with the participating employer to permanent
56 full-time employment with the participating employer
57 within one hundred twenty days following the termination
58 of the member's CETA employment; (2) the board must
59 receive evidence that establishes to a reasonable degree of
60 certainty as determined by the board that the member
61 previously worked in CETA; and (3) the member shall pay
62 to the board an amount equal to the employer and em-
63 ployee contribution plus interest at the amount set by the
64 board for the amount of service credit sought pursuant to
65 this subsection: *Provided, however*, That the maximum
66 service credit that may be obtained under the provisions of

67 this subsection is two years: *Provided further*, That a
68 member must apply and pay for the service credit allowed
69 under this subsection and provide all necessary documen-
70 tation by the thirty-first day of March, two thousand
71 three: *And provided further*, That the board shall exercise
72 due diligence to notify affected employees of the provi-
73 sions of this subsection.

74 (e)(1) Employees of the state Legislature whose terms of
75 employment are otherwise classified as temporary and
76 who are employed to perform services required by the
77 Legislature for its regular sessions or during the interim
78 time between regular sessions shall receive service credit
79 for the time served in that capacity in accordance with the
80 following. For purposes of this section, the term "regular
81 session" means day one through day sixty of a sixty-day
82 legislative session or day one through day thirty of a
83 thirty-day legislative session. Employees of the state
84 Legislature whose term of employment is otherwise
85 classified as temporary and who are employed to perform
86 services required by the Legislature for its regular sessions
87 or during the interim time between regular sessions and
88 who have been or are employed during regular sessions or
89 during the interim time between regular sessions in seven
90 consecutive calendar years, as certified by the clerk of the
91 house in which the employee served, shall receive service
92 credit of six months for all regular sessions served, as
93 certified by the clerk of the house in which the employee
94 served, or shall receive service credit of three months for
95 each regular thirty-day session served prior to one thou-
96 sand nine hundred seventy-one: *Provided*, That employees
97 of the state Legislature whose term of employment is
98 otherwise classified as temporary and who are employed
99 to perform services required by the Legislature for its
100 regular sessions and who have been or are employed
101 during the regular sessions in thirteen consecuti-
102 ve calendar years as either temporary employees or full-time
103 employees or a combination thereof, as certified by the
104 clerk of the house in which the employee served, shall

105 receive a service credit of twelve months for each regular
106 session served, as certified by the clerk of the house in
107 which the employee served: *Provided, however,* That the
108 amendments made to this subsection during the two
109 thousand two regular session of the Legislature only apply
110 to employees of the Legislature who are employed by the
111 Legislature as either temporary employees or full-time
112 employees as of the first day of January, two thousand
113 two, or who become employed by the Legislature as
114 temporary or full-time employees for the first time after
115 the first day of January, two thousand two. Employees of
116 the state Legislature whose terms of employment are
117 otherwise classified as temporary and who are employed
118 to perform services required by the Legislature during the
119 interim time between regular sessions shall receive service
120 credit of one month for each ten days served during the
121 interim between regular sessions, which interim days shall
122 be cumulatively calculated so that any ten days, regardless
123 of calendar month or year, shall be calculated toward any
124 award of one month of service credit: *Provided further,*
125 That no more than one year of service may be credited to
126 any temporary legislative employee for all service ren-
127 dered by that employee in any calendar year and no days
128 may be carried over by a temporary legislative employee
129 from one calendar year to another calendar year where the
130 member has received a full year credit for that year.
131 Service credit awarded for legislative employment pursu-
132 ant to this section shall be used for the purpose of calcu-
133 lating that member's retirement annuity, pursuant to
134 section twenty-two of this article, and determining
135 eligibility as it relates to credited service, notwithstanding
136 any other provision of this section. Certification of
137 employment for a complete legislative session and for
138 interim days shall be determined by the clerk of the house
139 in which the employee served, based upon employment
140 records. Service of fifty-five days of a regular session
141 constitutes an absolute presumption of service for a
142 complete legislative session and service of twenty-seven

143 days of a thirty-day regular session occurring prior to one
144 thousand nine hundred seventy-one constitutes an abso-
145 lute presumption of service for a complete legislative
146 session. Once a legislative employee has been employed
147 during regular sessions for seven consecutive years or has
148 become a full-time employee of the Legislature, that
149 employee shall receive the service credit provided in this
150 section for all regular and interim sessions and interim
151 days worked by that employee, as certified by the clerk of
152 the house in which the employee served, regardless of
153 when the session or interim legislative employment
154 occurred: *And provided further*, That regular session
155 legislative employment for seven consecutive years may be
156 served in either or both houses of the Legislature.

157 (e)(2) For purposes of this section, employees of the Joint
158 Committee on Government and Finance are entitled to the
159 same benefits as employees of the House of Delegates or
160 the Senate: *Provided*, That for joint committee employees
161 whose terms of employment are otherwise classified as
162 temporary, employment in preparation for regular ses-
163 sions, certified by the Legislative Manager as required by
164 the Legislature for its regular sessions, shall be considered
165 the same as employment during regular sessions to meet
166 service credit requirements for sessions served.

167 (f) Any employee may purchase retroactive service credit
168 for periods of employment in which contributions were not
169 deducted from the employee's pay. In the purchase of
170 service credit for employment prior to the year one
171 thousand nine hundred eighty-nine in any department,
172 including the Legislature, which operated from the
173 General Revenue Fund and which was not expressly
174 excluded from budget appropriations in which blanket
175 appropriations were made for the state's share of public
176 employees' retirement coverage in the years prior to the
177 year one thousand nine hundred eighty-nine, the employee
178 shall pay the employee's share. Other employees shall pay
179 the state's share and the employee's share to purchase

180 retroactive service credit. Where an employee purchases
181 service credit for employment which occurred after the
182 year one thousand nine hundred eighty-eight, that em-
183 ployee shall pay for the employee's share and the employer
184 shall pay its share for the purchase of retroactive service
185 credit: *Provided*, That no legislative employee and no
186 current or former member of the Legislature may be
187 required to pay any interest or penalty upon the purchase
188 of retroactive service credit in accordance with the
189 provisions of this section where the employee was not
190 eligible to become a member during the years for which he
191 or she is purchasing retroactive credit or had the employee
192 attempted to contribute to the system during the years for
193 which he or she is purchasing retroactive service credit
194 and such contributions would have been refused by the
195 board: *Provided, however*, That a legislative employee
196 purchasing retroactive credit under this section does so
197 within twenty-four months of becoming a member of the
198 system or no later than the last day of December, two
199 thousand eight, whichever occurs last: *Provided further*,
200 That once a legislative employee becomes a member of the
201 retirement system, he or she may purchase retroactive
202 service credit for any time he or she was employed by the
203 Legislature and did not receive service credit. Any service
204 credit purchased shall be credited as six months for each
205 sixty-day session worked, three months for each thirty-day
206 session worked or twelve months for each sixty-day
207 session for legislative employees who have been employed
208 during regular sessions in thirteen consecutive calendar
209 years, as certified by the clerk of the houses in which the
210 employee served, and credit for interim employment as
211 provided in this subsection: *And provided further*, That
212 this legislative service credit shall also be used for months
213 of service in order to meet the sixty-month requirement for
214 the payments of a temporary legislative employee mem-
215 ber's retirement annuity: *And provided further*, That no
216 legislative employee may be required to pay for any
217 service credit beyond the actual time he or she worked

218 regardless of the service credit which is credited to him or
219 her pursuant to this section: *And provided further*, That
220 any legislative employee may request a recalculation of his
221 or her credited service to comply with the provisions of
222 this section at any time.

223 (g)(1) Notwithstanding any provision to the contrary, the
224 seven consecutive calendar years requirement and the
225 thirteen consecutive calendar years requirement and the
226 service credit requirements set forth in this section shall be
227 applied retroactively to all periods of legislative employ-
228 ment prior to the passage of this section, including any
229 periods of legislative employment occurring before the
230 seven consecutive and thirteen consecutive calendar years
231 referenced in this section: *Provided*, That the employee has
232 not retired prior to the effective date of the amendments
233 made to this section in the two thousand two regular
234 session of the Legislature.

235 (2) The requirement of seven consecutive years and the
236 requirement of thirteen consecutive years apply retroac-
237 tively to all legislative employment prior to the effective
238 date of the two thousand six amendments to this section.

239 (h) The board of trustees shall grant service credit to any
240 former or present member of the State Police Death,
241 Disability and Retirement Fund who has been a contribut-
242 ing member of this system for more than three years for
243 service previously credited by the State Police Death,
244 Disability and Retirement Fund if the member transfers all
245 of his or her contributions to the State Police Death,
246 Disability and Retirement Fund to the system created in
247 this article, including repayment of any amounts with-
248 drawn any time from the State Police Death, Disability
249 and Retirement Fund by the member seeking the transfer
250 allowed in this subsection: *Provided*, That there shall be
251 added by the member to the amounts transferred or repaid
252 under this subsection an amount which shall be sufficient
253 to equal the contributions he or she would have made had
254 the member been under the Public Employees Retirement

255 System during the period of his or her membership in the
256 State Police Death, Disability and Retirement Fund plus
257 interest at a rate determined by the board.

258 (i) The provisions of section twenty-two-h of this article
259 are not applicable to the amendments made to this section
260 during the two thousand six regular session.

§5-10-27. Preretirement death annuities.

1 (a) (1) Except as otherwise provided in this section, in
2 the event any member who has ten or more years of
3 credited service or any former member with ten or more
4 years of credited service and who is entitled to a deferred
5 annuity, pursuant to section twenty-one of this article,
6 may at any time prior to the effective date of his or her
7 retirement, by written declaration duly executed and filed
8 with the board of trustees, in the same manner as if he or
9 she were then retiring from the employ of a participating
10 public employer, elect option A provided in section
11 twenty-four of this article and nominate a beneficiary
12 whom the board finds to have had an insurable interest in
13 the life of the member. Prior to the effective date of his or
14 her retirement, a member may revoke his or her election of
15 option A and nomination of beneficiary and he or she may
16 again prior to his or her retirement elect option A and
17 nominate a beneficiary as provided in this subsection.
18 Upon the death of a member who has an option A election
19 in force, his or her beneficiary, if living, shall immediately
20 receive an annuity computed in the same manner in all
21 respects as if the same member had retired the day preced-
22 ing the date of his or her death, notwithstanding that he or
23 she might not have attained age sixty years, and elected
24 the said option A. If at the time of his or her retirement a
25 member has an option A election in force, his or her
26 election of option A and nomination of beneficiary shall
27 thereafter continue in force. As an alternative to annuity
28 option A, a member or former member may elect to have
29 the preretirement death benefit paid as a return of accu-

30 mulated contributions in a lump sum amount to any
31 beneficiary or beneficiaries he or she chooses.

32 (2) In the event any member or former member, who first
33 became a member of the Public Employees Retirement
34 System after the effective date of amendments made to
35 this section during the two thousand six regular legislative
36 session and who has ten or more years of credited service
37 and who is entitled to a deferred annuity, pursuant to
38 section twenty-one of this article: Dies without leaving a
39 surviving spouse; but leaves surviving him or her a child
40 who is financially dependent on the member by virtue of
41 a permanent mental or physical disability upon evidence
42 satisfactory to the board; and has named the disabled child
43 as sole beneficiary, the disabled child shall immediately
44 receive an annuity computed in the same manner in all
45 respects as if the member had: (A) Retired the day preced-
46 ing the date of his or her death, notwithstanding that he or
47 she might not have attained age sixty or sixty-two years,
48 as the case may be; (B) elected option A provided in section
49 twenty-four of this article; and (C) nominated his or her
50 disabled child as beneficiary. A member or former mem-
51 ber with ten or more years of credited service, who does
52 not leave surviving him or her a spouse or a disabled child,
53 may elect to have the preretirement death benefit paid as
54 a return of accumulated contributions in a lump sum
55 amount to any beneficiary or beneficiaries he or she
56 chooses.

57 (b)(1) In the event any member who has ten or more
58 years of credited service, or any former member with ten
59 or more years of credited service and who is entitled to a
60 deferred annuity, pursuant to section twenty-one of this
61 article: Dies; and leaves a surviving spouse, the surviving
62 spouse shall immediately receive an annuity computed in
63 the same manner in all respects as if the member had: (A)
64 Retired the day preceding the date of his or her death,
65 notwithstanding that he or she might not have attained
66 age sixty or sixty-two years, as the case may be; (B) elected

67 option A provided in section twenty-four of this article;
68 and (C) nominated his or her surviving spouse as benefi-
69 ciary. However, the surviving spouse shall have the right
70 to waive the annuity provided in this section: *Provided,*
71 That he or she executes a valid and notarized waiver on a
72 form provided by the board and that the member or former
73 member attests to the waiver. If the waiver is presented to
74 and accepted by the board, the member or former member,
75 may nominate a beneficiary who has an insurable interest
76 in the member's or former member's life. As an alternative
77 to annuity option A, the member or former member may
78 elect to have the preretirement death benefit paid as a
79 return of accumulated contributions in a lump sum
80 amount to any beneficiary or beneficiaries he or she
81 chooses in the event a waiver, as provided in this section,
82 has been presented to and accepted by the board.

83 (2) Whenever any member or former member who first
84 became a member of the retirement system after the
85 effective date of the amendments to this section made
86 during the two thousand six regular legislative session and
87 who has ten or more years of credited service and who is
88 entitled to a deferred annuity, pursuant to section twenty-
89 one of this article: Dies; and leaves a surviving spouse, the
90 surviving spouse shall immediately receive an annuity
91 computed in the same manner in all respects as if the
92 member had: (A) Retired the day preceding the date of his
93 or her death, notwithstanding that he or she might not
94 have attained age sixty or sixty-two years, as the case may
95 be; (B) elected option A provided in section twenty-four of
96 this article; and (C) nominated his or her surviving spouse
97 as beneficiary. However, the surviving spouse shall have
98 the right to waive the annuity provided in this section:
99 *Provided,* That he or she executes a valid and notarized
100 waiver on a form provided by the board and that the
101 member or former member attests to the waiver. If the
102 waiver is presented to and accepted by the Board, the
103 member or former member may: (1) Elect to have the
104 preretirement death benefit paid in a lump sum amount,

105 rather than annuity option A provided in section twenty-
106 four of this article, as a return of accumulated contribu-
107 tions to any beneficiary or beneficiaries he or she chooses;
108 or (2) may name his or her surviving child, who is finan-
109 cially dependent on the member by virtue of a permanent
110 mental or physical disability, as his or her sole beneficiary
111 to receive an annuity computed in the same manner in all
112 respects as if the member had: (A) Retired the day preced-
113 ing the date of his or her death, notwithstanding that he or
114 she might not have attained the age of sixty or sixty-two
115 as the case may be; (B) elected option A provided in section
116 twenty-four of this article; and (C) nominated his or her
117 disabled child as beneficiary.

118 (c) In the event any member who has ten or more years
119 of credited service or any former member with ten or more
120 years of credited service and who is entitled to a deferred
121 annuity, pursuant to section twenty-one of this article: (1)
122 Dies without leaving surviving him or her a spouse; but (2)
123 leaves surviving him or her an infant child or children; and
124 (3) does not have a beneficiary nominated as provided in
125 subsection (a) of this section, the infant child or children
126 are entitled to an annuity to be calculated as follows: The
127 annuity reserve shall be calculated as though the member
128 had retired as of the date of his or her decease and elected
129 a straight life annuity and the amount of the annuity
130 reserve shall be paid in equal monthly installments to the
131 member's infant child or children until the child or
132 children attain age twenty-one or sooner marry or become
133 emancipated; however, in no event shall any child or
134 children receive more than two hundred fifty dollars per
135 month each. The annuity payments shall be computed as
136 of the date of the death of the member and the amount of
137 the annuity shall remain constant during the period of
138 payment. The annual amount of the annuities payable by
139 this section shall not exceed sixty percent of the deceased
140 member's final average salary.

141 (d) In the event any member or former member does not
142 have ten or more years of credited service, no

143 preretirement death annuity may be authorized, owed or
144 awarded under this section, except as provided in subdivi-
145 sion (4), subsection (a), section fifteen of this article as
146 amended during the two thousand five regular session of
147 the Legislature.

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

1 (a) The Legislature finds that a compelling state interest
2 exists in maintaining an actuarially sound retirement
3 system and that this interest necessitates that certain
4 limitations be placed upon an individual's ability to retire
5 from the system and to then later return to state employ-
6 ment as an employee with a participating public employer
7 while contemporaneously drawing an annuity from the
8 system. The Legislature hereby further finds and declares
9 that the interests of the public are served when persons
10 having retired from public employment are permitted,
11 within certain limitations, to render post-retirement
12 employment in positions of public service, either in elected
13 or appointed capacities. The Legislature further finds and
14 declares that it has the need for qualified employees and
15 that in many cases an employee of the Legislature will
16 retire and be available to return to work for the Legisla-
17 ture as a per diem employee. The Legislature further finds
18 and declares that in many instances these employees have
19 particularly valuable expertise which the Legislature
20 cannot find elsewhere. The Legislature further finds and
21 declares that reemploying these persons on a limited per
22 diem basis after they have retired is not only in the best
23 interests of this state, but has no adverse effect whatsoever
24 upon the actuarial soundness of this particular retirement
25 system.

26 (b) For the purposes of this section: (1) "Regularly
27 employed on a full-time basis" means employment of an
28 individual by a participating public employer, in a posi-
29 tion other than as an elected or appointed public official,
30 which normally requires twelve months per year service

31 and/or requires at least one thousand forty hours of service
32 per year in that position; (2) "temporary full-time employ-
33 ment or temporary part-time employment" means employ-
34 ment of an individual on a temporary or provisional basis
35 by a participating public employer, other than as an
36 elected or appointed public official, in a position which
37 does not otherwise render the individual as regularly
38 employed; (3) "former employee of the Legislature" means
39 any person who has retired from employment with the
40 Legislature and who has at least ten years contributing
41 service with the Legislature; and (4) "reemployed by the
42 Legislature" means a former employee of the Legislature
43 who has been reemployed on a per diem basis not to
44 exceed one hundred seventy-five days per calendar year.

45 (c) In the event a retirant becomes regularly employed on
46 a full-time basis by a participating public employer,
47 payment of his or her annuity shall be suspended during
48 the period of his or her reemployment and he or she shall
49 become a contributing member to the retirement system.
50 If his or her reemployment is for a period of one year or
51 longer, his or her annuity shall be recalculated and he or
52 she shall be granted an increased annuity due to such
53 additional employment, said annuity to be computed
54 according to section twenty-two of this article. A retirant
55 may accept temporary full-time or temporary part-time
56 employment from a participating employer without
57 suspending his or her retirement annuity so long as he or
58 she does not receive annual compensation in excess of
59 twenty thousand dollars.

60 (d) In the event a member retires and is then subse-
61 quently elected to a public office or is subsequently
62 appointed to hold an elected public office, or is a former
63 employee of the Legislature who has been reemployed by
64 the Legislature, he or she has the option, notwithstanding
65 subsection (c) of this section, to either:

66 (1) Continue to receive payment of his or her annuity
67 while holding such public office or during any

68 reemployment of a former employee of the Legislature on
69 a per diem basis, in addition to the salary he or she may be
70 entitled to as such office holder or as a per diem
71 reemployed former employee of the Legislature; or

72 (2) Suspend the payment of his or her annuity and
73 become a contributing member of the retirement system as
74 provided in subsection (c) of this section. Notwithstanding
75 the provisions of this subsection, a member who is partici-
76 pating in the system as an elected public official may not
77 retire from his or her elected position and commence to
78 receive an annuity from the system and then be reap-
79 pointed to the same position unless and until a continuous
80 six-month period has passed since his or her retirement
81 from the position: *Provided*, That a former employee of the
82 Legislature may not be reemployed by the Legislature on
83 a per diem basis until at least sixty days after the em-
84 ployee has retired: *Provided, however*, That the limitation
85 on compensation provided by subsection (b) of this section
86 does not apply to the reemployed former employee:
87 *Provided further*, That in no event may reemployment by
88 the Legislature of a per diem employee exceed one hun-
89 dred seventy-five days per calendar year.

90 (e) A member who is participating in the system simulta-
91 neously as both a regular, full-time employee of a partici-
92 pating public employer and as an elected or appointed
93 member of the legislative body of the state or any political
94 subdivision may, upon meeting the age and service re-
95 quirements of this article, elect to retire from his or her
96 regular full-time state employment and may commence to
97 receive an annuity from the system without terminating
98 his or her position as a member of the legislative body of
99 the state or political subdivision: *Provided*, That the
100 retired member shall not, during the term of his or her
101 retirement and continued service as a member of the
102 legislative body of a political subdivision, be eligible to
103 continue his or her participation as a contributing member
104 of the system and shall not continue to accrue any addi-

105 tional service credit or benefits in the system related to the
106 continued service.

107 (f) Notwithstanding the provisions of section twenty-
108 seven-b of this article, any publicly elected member of the
109 legislative body of any political subdivision or of the state
110 Legislature, the Clerk of the House of Delegates and the
111 Clerk of the Senate may elect to commence receiving in-
112 service retirement distributions from this system upon
113 attaining the age of seventy and one-half years: *Provided,*
114 That the member is eligible to retire under the provisions
115 of section twenty or section twenty-one of this article:
116 *Provided, however,* That the member elects to stop ac-
117 tively contributing to the system while receiving such in-
118 service distributions.

119 (g) The provisions of section twenty-two-h of this article
120 are not applicable to the amendments made to this section
121 during the two thousand six regular session.

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

Candy White
.....
Chairman Senate Committee

L. Bean
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Parrell E. Holmes
.....
Clerk of the Senate

Brian M. Bell
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert L. Bell
.....
Speaker House of Delegates

The within *is approved* this the *5th*
Day of *April*, 2006.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 31 2006

Time 10:30am