

**Senate Bill No. 529**

(By Senators Gaunch and Carmichael)

[Introduced February 20, 2015; referred to the Committee on Finance.]

**FISCAL  
NOTE**

9 A BILL to amend and reenact §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and  
10 §5-10-29 of the Code of West Virginia, 1931, as amended; to amend said code by adding  
11 thereto a new section, designated §5-10-21a; to amend and reenact §5-13-2 of said code; to  
12 amend and reenact §5-16-13 of said code; to amend and reenact §15-2A-21 of said code; to  
13 amend and reenact §18-7A-17, §18-7A-23 and §18-7A-25 of said code; and to amend said  
14 code by adding thereto two new sections, designated §18-7A-17a and §18-7A-25b, all  
15 relating generally to benefits and costs for future members of the West Virginia Public  
16 Employees Retirement System, State Police Retirement System and Teachers Retirement  
17 System.

18 Be it enacted by the Legislature of West Virginia:

19 That §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29 of the Code  
20 of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by  
21 adding thereto a new section, designated §5-10-21a; that §5-13-2 of said code be amended and

1 reenacted; that §5-16-13 of said code be amended and reenacted; that §15-2A-21 of said code be  
2 amended and reenacted; that §18-7A-17, §18-7A-23 and §18-7A-25 of said code be amended and  
3 reenacted; and that said code be amended by adding thereto two new sections, designated  
4 §18-7A-17a and §18-7a-25b, all to read as follows:

5 **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR,**  
6 **SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD**  
7 **OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS,**  
8 **OFFICES, PROGRAMS, ETC.**  
9 **ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

10 **§5-10-2. Definitions.**

11 Unless a different meaning is clearly indicated by the context, the following words and  
12 phrases as used in this article, have the following meanings:

13 (1) "Accumulated contributions" means the sum of all amounts deducted from the  
14 compensations of a member and credited to his or her individual account in the members' deposit  
15 fund, together with regular interest on the contributions;

16 (2) "Accumulated net benefit" means the aggregate amount of all benefits paid to or on behalf  
17 of a retired member;

18 (3) "Actuarial equivalent" means a benefit of equal value computed upon the basis of a  
19 mortality table and regular interest adopted by the board of trustees from time to time: *Provided,*  
20 That when used in the context of compliance with the federal maximum benefit requirements of  
21 Section 415 of the Internal Revenue Code, "actuarial equivalent" shall be computed using the

1 mortality tables and interest rates required to comply with those requirements;

2 (4) "Annuity" means an annual amount payable by the retirement system throughout the life  
3 of a person. All annuities shall be paid in equal monthly installments, rounding to the upper cent for  
4 any fraction of a cent;

5 (5) "Annuity reserve" means the present value of all payments to be made to a retirant or  
6 beneficiary of a retirant on account of any annuity, computed upon the basis of mortality and other  
7 tables of experience, and regular interest, adopted by the board of trustees from time to time;

8 (6) "Beneficiary" means any person, except a retirant, who is entitled to, or will be entitled  
9 to, an annuity or other benefit payable by the retirement system;

10 (7) "Board of Trustees" or "board" means the Board of Trustees of the West Virginia  
11 Consolidated Public Retirement System;

12 (8) "Compensation" means the remuneration paid a member by a participating public  
13 employer for personal services rendered by the member to the participating public employer. In the  
14 event a member's remuneration is not all paid in money, his or her participating public employer  
15 shall fix the value of the portion of the remuneration which is not paid in money. Any lump sum or  
16 other payments paid to members that do not constitute regular salary or wage payments are not  
17 considered compensation for the purpose of withholding contributions for the system or for the  
18 purpose of calculating a member's final average salary. These payments include, but are not limited  
19 to, attendance or performance bonuses, one-time flat fee or lump sum payments, payments paid as  
20 a result of excess budget, or employee recognition payments. The board shall have final power to  
21 decide whether the payments shall be considered compensation for purposes of this article;

1           (9) "Contributing service" means service rendered by a member within this state and for  
2 which the member made contributions to a public retirement system account of this state, to the  
3 extent credited him or her as provided by this article;

4           (10) "Credited service" means the sum of a member's prior service credit, military service  
5 credit, workers' compensation service credit and contributing service credit standing to his or her  
6 credit as provided in this article;

7           (11) "Employee" means any person who serves regularly as an officer or employee, full time,  
8 on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the  
9 service of, and whose compensation is payable, in whole or in part, by any political subdivision, or  
10 an officer or employee whose compensation is calculated on a daily basis and paid monthly or on  
11 completion of assignment, including technicians and other personnel employed by the West Virginia  
12 National Guard whose compensation, in whole or in part, is paid by the federal government:  
13 *Provided*, That an employee of the Legislature whose term of employment is otherwise classified  
14 as temporary and who is employed to perform services required by the Legislature for its regular  
15 sessions or during the interim between regular sessions and who has been or is employed during  
16 regular sessions or during the interim between regular sessions in seven or more consecutive  
17 calendar years, as certified by the clerk of the house in which the employee served, is an employee,  
18 any provision to the contrary in this article notwithstanding, and is entitled to credited service in  
19 accordance with provisions of section fourteen, article ten, chapter five of this code and: *Provided*,  
20 *however*, That members of the legislative body of any political subdivision and judges of the State  
21 Court of Claims are employees receiving one year of service credit for each one-year term served and

1 pro rated service credit for any partial term served, anything contained in this article to the contrary  
2 notwithstanding. In any case of doubt as to who is an employee within the meaning of this article,  
3 the Board of Trustees shall decide the question;

4 (12) "Employer error" means an omission, misrepresentation, or violation of relevant  
5 provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the  
6 relevant provisions of both the West Virginia Code and of the West Virginia Code of State  
7 Regulations by the participating public employer that has resulted in an underpayment or  
8 overpayment of contributions required. A deliberate act contrary to the provisions of this section by  
9 a participating public employer does not constitute employer error.

10 (13) "Final average salary" means either of the following: *Provided*, That salaries for  
11 determining benefits during any determination period may not exceed the maximum compensation  
12 allowed as adjusted for cost of living in accordance with section seven, article ten-d, chapter five of  
13 this code and Section 401(a)(17) of the Internal Revenue Code: *Provided, however*, That the  
14 provisions of section twenty-two-h of this article are not applicable to the amendments made to this  
15 subdivision during the 2011 regular session of the Legislature.

16 (A) The average of the highest annual compensation received by a member (including a  
17 member of the Legislature who participates in the retirement system in the year 1971 or thereafter),  
18 during any period of three consecutive years of credited service contained within the member's  
19 fifteen years of credited service immediately preceding the date his or her employment with a  
20 participating public employer last terminated: *Provided, That for persons who first become members*  
21 *of the retirement system on or after July 1, 2010, any period of five consecutive years of contributing*

1 service contained within the member's fifteen years of credited service immediately preceding the  
2 date his or her employment with a participating public employer last terminated ; or

3 (B) If the member has less than five years of credited service, the average of the annual rate  
4 of compensation received by the member during his or her total years of credited service; and in  
5 determining the annual compensation, under either paragraph (A) or (B) of this subdivision, of a  
6 member of the Legislature who participates in the retirement system as a member of the Legislature  
7 in the year 1971, or in any year thereafter, his or her actual legislative compensation (the total of all  
8 compensation paid under sections two, three, four and five, article two-a, chapter four of this code),  
9 in the year 1971, or in any year thereafter, plus any other compensation he or she receives in any year  
10 from any other participating public employer including the State of West Virginia, without any  
11 multiple in excess of one times his or her actual legislative compensation and other compensation,  
12 shall be used: *Provided*, That "final average salary" for any former member of the Legislature or for  
13 any member of the Legislature in the year 1971, who, in either event, was a member of the  
14 Legislature on November 30, 1968, or November 30, 1969, or November 30, 1970, or on November  
15 30 in any one or more of those three years and who participated in the retirement system as a member  
16 of the Legislature in any one or more of those years means: (i) Either (notwithstanding the provisions  
17 of this subdivision preceding this proviso) \$1,500 multiplied by eight, plus the highest other  
18 compensation the former member or member received in any one of the three years from any other  
19 participating public employer including the State of West Virginia; or (ii) "final average salary"  
20 determined in accordance with paragraph (A) or (B) of this subdivision, whichever computation  
21 produces the higher final average salary (and in determining the annual compensation under

1 subparagraph (ii) of this proviso, the legislative compensation of the former member shall be  
2 computed on the basis of \$1,500 multiplied by eight, and the legislative compensation of the member  
3 shall be computed on the basis set forth in the provisions of this subdivision immediately preceding  
4 this proviso or on the basis of \$1,500 multiplied by eight, whichever computation as to the member  
5 produces the higher annual compensation);

6 (14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended,  
7 codified at Title 26 of the United States Code;

8 (15) "Limited credited service" means service by employees of the West Virginia Educational  
9 Broadcasting Authority, in the employment of West Virginia University, during a period when the  
10 employee made contributions to another retirement system, as required by West Virginia University,  
11 and did not make contributions to the Public Employees Retirement System: *Provided*, That while  
12 limited credited service can be used for the formula set forth in subsection (e), section twenty-one  
13 of this article, it may not be used to increase benefits calculated under section twenty-two of this  
14 article;

15 (16) "Member" means any person who has accumulated contributions standing to his or her  
16 credit in the members' deposit fund; *Provided*, That any person who left the employ of a  
17 participating public employer prior to July 1, 2015, withdrew his or her accumulated contributions,  
18 and then subsequently returns to the employ of a participating public employer and, within  
19 twenty-four months of reemployment, redeposits his or her accumulated contributions to the  
20 members' deposit fund may be considered a member from his or her original date of hire;

21 (17) "Participating public employer" means the State of West Virginia, any board,

1 commission, department, institution or spending unit, and includes any agency created by rule of the  
2 Supreme Court of Appeals having full-time employees, which for the purposes of this article is  
3 considered a department of state government; and any political subdivision in the state which has  
4 elected to cover its employees, as defined in this article, under the West Virginia Public Employees  
5 Retirement System;

6 (18) "Plan year" means the same as referenced in section forty-two of this article;

7 (19) "Political subdivision" means the State of West Virginia, a county, city or town in the  
8 state; a school corporation or corporate unit; any separate corporation or instrumentality established  
9 by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality  
10 supported in most part by counties, cities or towns; and any public corporation charged by law with  
11 the performance of a governmental function and whose jurisdiction is coextensive with one or more  
12 counties, cities or towns: *Provided*, That any mental health agency participating in the Public  
13 Employees Retirement System before July 1, 1997, is considered a political subdivision solely for  
14 the purpose of permitting those employees who are members of the Public Employees Retirement  
15 System to remain members and continue to participate in the retirement system at their option after  
16 July 1, 1997: *Provided, however*, That the Regional Community Policing Institute which  
17 participated in the Public Employees Retirement System before July 1, 2000, is considered a political  
18 subdivision solely for the purpose of permitting those employees who are members of the Public  
19 Employees Retirement System to remain members and continue to participate in the Public  
20 Employees Retirement System after July 1, 2000;

21 (20) "Prior service" means service rendered prior to July 1, 1961, to the extent credited a



1 member as provided in this article;

2 (21) "Regular interest" means the rate or rates of interest per annum, compounded annually,  
3 as the board of trustees adopts from time to time;

4 (22) "Required beginning date" means April 1, of the calendar year following the later of: (A)  
5 The calendar year in which the member attains age seventy and one half years of age; or (B) the  
6 calendar year in which a member who has attained the age seventy and one half years of age and who  
7 ceases providing service covered under this system to a participating employer;

8 (23) "Retirant" means any member who commences an annuity payable by the retirement  
9 system;

10 (24) "Retirement" means a member's withdrawal from the employ of a participating public  
11 employer and the commencement of an annuity by the retirement system;

12 (25) "Retirement system" or "system" means the West Virginia Public Employees Retirement  
13 System created and established by this article;

14 (26) "Retroactive service" means: (1) Service between July 1, 1961, and the date an employer  
15 decides to become a participating member of the Public Employees Retirement System; (2) service  
16 prior to July 1, 1961, for which the employee is not entitled to prior service at no cost in accordance  
17 with 162 CSR 5.13; and (3) service of any member of a legislative body or employees of the State  
18 Legislature whose term of employment is otherwise classified as temporary for which the employee  
19 is eligible, but for which the employee did not elect to participate at that time;

20 (27) "Service" means personal service rendered to a participating public employer by an  
21 employee of a participating public employer; and

1 (28) "State" means the State of West Virginia.

2 **§5-10-14. Service credit; retroactive provisions.**

3 (a) The Board of Trustees shall credit each member with the prior service and contributing  
4 service to which he or she is entitled based upon rules adopted by the Board of Trustees and based  
5 upon the following:

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

15 (2) Except for hourly employees, and those persons who first become members of the  
16 retirement system on or after July 1, 2010, ten or more months of service credit earned in any  
17 calendar year shall be credited as a year of service: *Provided*, That no more than one year of service  
18 may be credited to any member for all service rendered by him or her in any calendar year and no  
19 days may be carried over by a member from one calendar year to another calendar year where the  
20 member has received a full-year credit for that year; and

21 (3) Service may be credited to a member who was employed by a political subdivision if his

1 or her employment occurred within a period of thirty years immediately preceding the date the  
2 political subdivision became a participating public employer.

3 (b) The Board of Trustees shall grant service credit to employees of boards of health, the  
4 Clerk of the House of Delegates and the Clerk of the State Senate or to any former and present  
5 member of the State Teachers Retirement System who have been contributing members for more  
6 than three years, for service previously credited by the State Teachers Retirement System and shall  
7 require the transfer of the member's contributions to the system and shall also require a deposit, with  
8 interest, of any withdrawals of contributions any time prior to the member's retirement. Repayment  
9 of withdrawals shall be as directed by the board of trustees.

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

13 (d) Active members who previously worked in CETA (Comprehensive Employment and  
14 Training Act) may receive service credit for time served in that capacity: *Provided*, That in order  
15 to receive service credit under the provisions of this subsection the following conditions must be  
16 met: (1) The member must have moved from temporary employment with the participating  
17 employer to permanent full-time employment with the participating employer within one hundred  
18 twenty days following the termination of the member's CETA employment; (2) the board must  
19 receive evidence that establishes to a reasonable degree of certainty as determined by the board that  
20 the member previously worked in CETA; and (3) the member shall pay to the board an amount equal  
21 to the employer and employee contribution plus interest at the amount set by the board for the

1 amount of service credit sought pursuant to this subsection: *Provided, however,* That the maximum  
2 service credit that may be obtained under the provisions of this subsection is two years: *Provided*  
3 *further,* That a member must apply and pay for the service credit allowed under this subsection and  
4 provide all necessary documentation by March 31, 2003: *And provided further,* That the board shall  
5 exercise due diligence to notify affected employees of the provisions of this subsection.

6 (e) (1) Employees of the State Legislature whose terms of employment are otherwise  
7 classified as temporary and who are employed to perform services required by the Legislature for  
8 its regular sessions or during the interim time between regular sessions shall receive service credit  
9 for the time served in that capacity in accordance with the following. For purposes of this section,  
10 the term "regular session" means day one through day sixty of a sixty-day legislative session or day  
11 one through day thirty of a thirty-day legislative session. Employees of the State Legislature whose  
12 term of employment is otherwise classified as temporary and who are employed to perform services  
13 required by the Legislature for its regular sessions or during the interim time between regular  
14 sessions and who have been or are employed during regular sessions or during the interim time  
15 between regular sessions in seven consecutive calendar years, as certified by the clerk of the house  
16 in which the employee served, shall receive service credit of six months for all regular sessions  
17 served, as certified by the clerk of the house in which the employee served, or shall receive service  
18 credit of three months for each regular thirty-day session served prior to 1971: *Provided,* That  
19 employees of the state Legislature whose term of employment is otherwise classified as temporary  
20 and who are employed to perform services required by the Legislature for its regular sessions and  
21 who have been or are employed during the regular sessions in thirteen consecutive calendar years

1 as either temporary employees or full-time employees or a combination thereof, as certified by the  
2 clerk of the house in which the employee served, shall receive a service credit of twelve months for  
3 each regular session served, as certified by the clerk of the house in which the employee served:  
4 *Provided, however,* That the amendments made to this subsection during the 2002 regular session  
5 of the Legislature only apply to employees of the Legislature who are employed by the Legislature  
6 as either temporary employees or full-time employees as of January 1, 2002, or who become  
7 employed by the Legislature as temporary or full-time employees for the first time after January 1,  
8 2002. Employees of the State Legislature whose terms of employment are otherwise classified as  
9 temporary and who are employed to perform services required by the Legislature during the interim  
10 time between regular sessions shall receive service credit of one month for each ten days served  
11 during the interim between regular sessions, which interim days shall be cumulatively calculated so  
12 that any ten days, regardless of calendar month or year, shall be calculated toward any award of one  
13 month of service credit: *Provided further,* That no more than one year of service may be credited  
14 to any temporary legislative employee for all service rendered by that employee in any calendar year  
15 and no days may be carried over by a temporary legislative employee from one calendar year to  
16 another calendar year where the member has received a full year credit for that year. Service credit  
17 awarded for legislative employment pursuant to this section shall be used for the purpose of  
18 calculating that member's retirement annuity, pursuant to section twenty-two of this article, and  
19 determining eligibility as it relates to credited service, notwithstanding any other provision of this  
20 section. Certification of employment for a complete legislative session and for interim days shall  
21 be determined by the clerk of the house in which the employee served, based upon employment

1 records. Service of fifty-five days of a regular session constitutes an absolute presumption of service  
2 for a complete legislative session and service of twenty-seven days of a thirty-day regular session  
3 occurring prior to 1971 constitutes an absolute presumption of service for a complete legislative  
4 session. Once a legislative employee has been employed during regular sessions for seven  
5 consecutive years or has become a full-time employee of the Legislature, that employee shall receive  
6 the service credit provided in this section for all regular and interim sessions and interim days  
7 worked by that employee, as certified by the clerk of the house in which the employee served,  
8 regardless of when the session or interim legislative employment occurred: *And provided further,*  
9 That regular session legislative employment for seven consecutive years may be served in either or  
10 both houses of the Legislature.

11 (2) For purposes of this section, employees of the Joint Committee on Government and  
12 Finance are entitled to the same benefits as employees of the House of Delegates or the Senate:  
13 *Provided,* That for joint committee employees whose terms of employment are otherwise classified  
14 as temporary, employment in preparation for regular sessions, certified by the legislative manager  
15 as required by the Legislature for its regular sessions, shall be considered the same as employment  
16 during regular sessions to meet service credit requirements for sessions served.

17 (f) Any employee may purchase retroactive service credit for periods of employment in which  
18 contributions were not deducted from the employee's pay. In the purchase of service credit for  
19 employment prior to 1989 in any department, including the Legislature, which operated from the  
20 General Revenue Fund and which was not expressly excluded from budget appropriations in which  
21 blanket appropriations were made for the state's share of public employees' retirement coverage in

1 the years prior to 1989, the employee shall pay the employee's share. Other employees shall pay the  
2 state's share and the employee's share to purchase retroactive service credit. Where an employee  
3 purchases service credit for employment which occurred after 1988, that employee shall pay for the  
4 employee's share and the employer shall pay its share for the purchase of retroactive service credit:  
5 *Provided*, That no legislative employee and no current or former member of the Legislature may be  
6 required to pay any interest or penalty upon the purchase of retroactive service credit in accordance  
7 with the provisions of this section where the employee was not eligible to become a member during  
8 the years for which he or she is purchasing retroactive credit or had the employee attempted to  
9 contribute to the system during the years for which he or she is purchasing retroactive service credit  
10 and such contributions would have been refused by the board: *Provided, however*, That a legislative  
11 employee purchasing retroactive credit under this section does so within twenty-four months of  
12 becoming a member of the system or no later than December 31, 2008, whichever occurs last:  
13 *Provided further*, That once a legislative employee becomes a member of the retirement system, he  
14 or she may purchase retroactive service credit for any time he or she was employed by the  
15 Legislature and did not receive service credit. Any service credit purchased shall be credited as six  
16 months for each sixty-day session worked, three months for each thirty-day session worked or twelve  
17 months for each sixty-day session for legislative employees who have been employed during regular  
18 sessions in thirteen consecutive calendar years, as certified by the clerk of the house in which the  
19 employee served, and credit for interim employment as provided in this subsection: *And provided*  
20 *further*, That this legislative service credit shall also be used for months of service in order to meet  
21 the sixty-month requirement for the payments of a temporary legislative employee member's

1 retirement annuity: *And provided further*, That no legislative employee may be required to pay for  
2 any service credit beyond the actual time he or she worked regardless of the service credit which is  
3 credited to him or her pursuant to this section: *And provided further*, That any legislative employee  
4 may request a recalculation of his or her credited service to comply with the provisions of this  
5 section at any time.

6 (g)(1) Notwithstanding any provision to the contrary, the seven consecutive calendar years  
7 requirement and the thirteen consecutive calendar years requirement and the service credit  
8 requirements set forth in this section shall be applied retroactively to all periods of legislative  
9 employment prior to the passage of this section, including any periods of legislative employment  
10 occurring before the seven consecutive and thirteen consecutive calendar years referenced in this  
11 section: *Provided*, That the employee has not retired prior to the effective date of the amendments  
12 made to this section in the 2002 regular session of the Legislature.

13 (2) The requirement of seven consecutive years and the requirement of thirteen consecutive  
14 years apply retroactively to all legislative employment prior to the effective date of the 2006  
15 amendments to this section.

16 (h) The Board of Trustees shall grant service credit to any former or present member of the  
17 State Police Death, Disability and Retirement Fund who has been a contributing member of this  
18 system for more than three years for service previously credited by the State Police Death, Disability  
19 and Retirement Fund if the member transfers all of his or her contributions to the State Police Death,  
20 Disability and Retirement Fund to the system created in this article, including repayment of any  
21 amounts withdrawn any time from the State Police Death, Disability and Retirement Fund by the



1 member seeking the transfer allowed in this subsection: *Provided*, That there shall be added by the  
2 member to the amounts transferred or repaid under this subsection an amount which shall be  
3 sufficient to equal the contributions he or she would have made had the member been under the  
4 Public Employees Retirement System during the period of his or her membership in the State Police  
5 Death, Disability and Retirement Fund, excluding contributions on lump sum payment for annual  
6 leave, plus interest at a rate determined by the board.

7 (i) The provisions of section twenty-two-h of this article are not applicable to the  
8 amendments made to this section during the 2006 regular session.

9 **§5-10-15. Military service credit; qualified military service.**

10 (a)(1) The Legislature recognizes the men and women of this state who have served in the  
11 Armed Forces of the United States during times of war, conflict and danger. It is the intent of this  
12 subsection to confer military service credit upon persons who are eligible at any time for public  
13 employees retirement benefits for any time served in active duty in the Armed Forces of the United  
14 States, ~~when the duty was during any period of compulsory military service or during a period of~~  
15 ~~armed conflict, as defined in this section~~ regardless of whether the person was a public employee at  
16 the time of entering the military service.

17 (2) In addition to any benefit provided by federal law, any member of the Retirement System  
18 who has previously served in or enters the active service of the Armed Forces of the United States,  
19 including active duty in the National Guard performed pursuant to Title 10 or Title 32 of the United  
20 States Code, during any period of compulsory military service or during a period of armed conflict  
21 shall receive credited service for the time spent in the Armed Forces of the United States, not to

1 exceed five years if the member:

2 (A) Has been honorably discharged from the Armed Forces; and

3 (B) Substantiates by appropriate documentation or evidence his or her active military service.

4 ~~and entry into military service during any period of compulsory military service or during periods~~  
5 ~~of armed conflict~~

6 (3) ~~Any member of the Retirement System who enters the active service of the Armed Forces~~  
7 ~~of the United States during any period of compulsory military service or during a period of armed~~  
8 ~~conflict shall receive the credit provided by this regardless of whether he or she was a public~~  
9 ~~employee at the time of entering the military service.~~

10 (4) If a member of the ~~Public Employees Retirement System~~ retirement system enters the  
11 active service of the Armed Forces of the United States ~~and serves during any period of compulsory~~  
12 ~~military service or during any period of armed conflict, during the period of the armed service and~~  
13 ~~until the member's return to the employ of a participating public employer, the member's~~  
14 ~~contributions to the retirement system is~~ are suspended during the period of the active service and  
15 until the member's return to the employ of a participating public employer, and any credit balance  
16 remaining in the member's deposit fund shall ~~be accumulated at~~ accumulate regular interest:  
17 *Provided,* That notwithstanding any provision in this article to the contrary, if an employee of a  
18 participating political subdivision serving on active duty in the military ~~service during any period~~  
19 ~~of compulsory military service or armed conflict~~ has accumulated credited service prior to the last  
20 entry into military service, in an amount that, added to the time in active military service while an  
21 employee equals nine or more years, and the member is unable to resume employment with a

1 participating employer upon completion of duty due to death during or as a result of active service,  
2 all time spent in active military service, up to and including a total of five years, is considered to be  
3 credited service and death benefits are vested in the member: *Provided, however,* That the active  
4 service during the time the member is an employee must be as a result of an order or call to duty, and  
5 not as a result of volunteering for assignment or volunteering to extend the time in service beyond  
6 the time required by order or call.

7 ~~(5) No member may receive duplicate credit for service for a period of compulsory military~~  
8 ~~service which falls under a period of armed conflict.~~

9 ~~(6) In any case of doubt as to the period of service to be credited a member under the~~  
10 ~~provisions of this section, the board of Trustees have final power to determine the period:~~

11 ~~(7) The Board may consider a petition by any member whose tour of duty, in a territory that~~  
12 ~~would reasonably be considered hostile and dangerous, was extended beyond the period in which~~  
13 ~~an armed conflict was officially recognized, if that tour of duty commenced during a period of armed~~  
14 ~~conflict, and the member was assigned to duty stations within the hostile territory throughout the~~  
15 ~~period for which service credit is being sought. The Board has the authority to evaluate the facts and~~  
16 ~~circumstances peculiar to the petition, and rule on whether granting service credit for the extended~~  
17 ~~tour of duty is consistent with the objectives of this article. In that determination, the board may~~  
18 ~~grant full credit for the period under petition subject to the limitations otherwise applicable, or to~~  
19 ~~grant credit for any part of the period as the board considers appropriate, or to deny credit altogether.~~

20 ~~(8) The Board of Trustees may propose legislative rules for promulgation in accordance with~~  
21 ~~the provisions of article three [ §§ 29A-3-1 et seq. ], chapter twenty-nine-a of this code to administer~~

1 the provisions of this section:

2 (b) For purposes of this section, the following definitions apply:

3 (1) ~~“Period of armed conflict” means the Spanish-American War, the Mexican border period,~~  
4 ~~World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War and any~~  
5 ~~other period of armed conflict by the United States, including, but not limited to, those periods~~  
6 ~~sanctioned by a declaration of war by the United States Congress or by executive or other order of~~  
7 ~~the President.~~

8 (2) ~~“Spanish-American War” means the period beginning on the twenty-first day of April,~~  
9 ~~one thousand eight hundred ninety-eight, and ending on the fourth day of July, one thousand nine~~  
10 ~~hundred two, and includes the Philippine Insurrection, the Boxer Rebellion, and in the case of a~~  
11 ~~veteran who served with the United States Military forces engaged in hostilities in the Moro~~  
12 ~~Province, means the period beginning on the twenty-first day of April, one thousand eight hundred~~  
13 ~~ninety-eight, and ending on the fifteenth day of July, one thousand nine hundred three.~~

14 (3) ~~“The Mexican border period” means the period beginning on the ninth day of May, one~~  
15 ~~thousand nine hundred sixteen, and ending on the fifth day of April, one thousand nine hundred~~  
16 ~~seventeen, in the case of a veteran who during the period served in Mexico, on its borders or in the~~  
17 ~~waters adjacent to it.~~

18 (4) ~~“World War I” means the period beginning on the sixth day of April, one thousand nine~~  
19 ~~hundred seventeen, and ending on the eleventh day of November, one thousand nine hundred~~  
20 ~~eighteen, and in the case of a veteran who served with the United States Military forces in Russia,~~  
21 ~~means the period beginning on the sixth day of April, one thousand nine hundred seventeen, and~~

1 ending on the first day of April, one thousand nine hundred twenty.

2 (5) ~~“World War II” means the period beginning on the seventh day of December, one~~  
3 ~~thousand nine hundred forty-one, and ending on the thirty-first day of December, one thousand nine~~  
4 ~~hundred forty-six.~~

5 (6) ~~“Korean conflict” means the period beginning on the twenty-seventh day of June, one~~  
6 ~~thousand nine hundred fifty, and ending on the thirty-first day of January, one thousand nine hundred~~  
7 ~~fifty-five.~~

8 (7) ~~“The Vietnam era” means the period beginning on the twenty-eighth day of February, one~~  
9 ~~thousand nine hundred sixty-one, and ending on the seventh day of May, one thousand nine hundred~~  
10 ~~seventy-five, in the case of a veteran who served in the Republic of Vietnam during that period; and~~  
11 ~~the fifth day of August, one thousand nine hundred sixty-four, and ending on the seventh day of May,~~  
12 ~~one thousand nine hundred seventy-five, in all other cases.~~

13 (8) ~~“Persian Gulf War” means the period beginning on the second day of August, one~~  
14 ~~thousand nine hundred ninety, and ending on the eleventh day of April, one thousand nine hundred~~  
15 ~~ninety-one.~~

16 (b) Subsection (a) does not apply to any member who first becomes an employee of a  
17 participating public employer on or after July 1, 2010. This subsection (b) does not apply to any  
18 member who first became an employee of a participating public employer before July 1, 2010.

19 (1) A member who first becomes an employee of a participating public employer on or after  
20 July 1, 2010, may purchase up to sixty months of military service credit for time served in active  
21 military duty prior to first becoming an employee of a participating public employer if all of the

1 following conditions are met:

2 (A) The member has completed at least twelve consecutive months of contributory service  
3 upon first becoming an employee of a participating public employer;

4 (B) The active military duty occurs prior to the date on which the member first becomes an  
5 employee of a participating public employer; and

6 (C) The member pays to the retirement system the actuarial reserve lump sum purchase  
7 amount within thirty-six months after the date on which employer and employee contributions are  
8 first received by the retirement system for the member and while he or she continues to be in the  
9 employ of a participating public employer and contributing to the retirement system.

10 (2) Notwithstanding subsection (b)(1)(A), a member who first becomes an employee of a  
11 participating public employer on or after July 1, 2010, but who does not remain employed and  
12 contributing to the retirement system for at least twelve consecutive months after his or her initial  
13 employment, shall be considered to have met the requirement of subsection (b)(1)(A) the first time  
14 he or she becomes an employee of a participating public employer and completes at least twelve  
15 consecutive months of contributing service. Such a member shall be considered to have met the  
16 requirement of subsection (b)(1)(C) if he or she pays to the retirement system the actuarial reserve  
17 lump sum purchase amount within thirty-six months after the date on which employer and employee  
18 contributions are first received by the retirement system for the member the first time he or she  
19 becomes an employee of a participating public employer and completes at least twelve consecutive  
20 months of contributing service, and while he or she continues to be in the employ of a participating  
21 public employer and contributing to the retirement system.

1       (3) Notwithstanding subsection (b)(1)(A), a member who first becomes an employee of a  
2 participating public employer on or after July 1, 2010, as an elected official, shall be considered to  
3 have met the requirement of subsection (b)(1)(A) after remaining employed for the first twelve  
4 consecutive months of his or her term and first becoming an employee, regardless of whether a salary  
5 is paid to the employee for each such month. An elected official who does not elect to begin  
6 participating in the retirement system upon first becoming an employee of a participating public  
7 employer as an elected official is not be eligible to purchase military service credit pursuant to  
8 subsection (b)(1).

9       (4) A member who first becomes an employee of a participating public employer on or after  
10 July 1, 2010, may purchase military service credit for active military duty performed on or after the  
11 date he or she first becomes an employee of a participating public employer only if all of the  
12 following conditions are met: *Provided*, That the maximum military service credit such member  
13 may purchase shall take into account any military service credit purchased for active military duty  
14 pursuant to subsection (b)(1) in addition to any military service credit purchased pursuant to this  
15 subsection (b)(4):

16       (A) The member was an employee of a participating public employer, terminated  
17 employment and experienced a break in contributing service in the retirement system of one or more  
18 months, performed active military service while not an employee of the participating public  
19 employer and not contributing to the retirement system, then again becomes an employee of a  
20 participating public employer and completes at least twelve consecutive months of contributory  
21 service;

1       (B) The member does not qualify for military service credit for such active military duty  
2 pursuant to subsection (d) of this section; and

3       (C) The member pays to the retirement system the actuarial reserve lump sum purchase  
4 amount within thirty-six months after the date on which employer and employee contributions are  
5 first received by the retirement system for the member after he or she again becomes an employee  
6 of a participating public employer immediately following the period of active military duty and break  
7 in service and completes at least twelve consecutive months of contributory service, and while he  
8 or she continues to be in the employ of a participating public employer and contributing to the  
9 retirement system.

10       (5) Notwithstanding subsection (b)(4)(A), a member who otherwise meets the requirements  
11 of subsection (b)(4)(A), but who does not remain employed and contributing to the retirement system  
12 for at least twelve consecutive months when he or she first becomes an employee of a participating  
13 public employer after the period of active military duty and break in service, shall be considered to  
14 have met the requirement of subsection (b)(4)(A) the first time he or she again becomes an employee  
15 of a participating public employer and completes at least twelve consecutive months of contributing  
16 service. Such a member shall be considered to have met the requirement of subsection (b)(4)(C) if  
17 he or she pays to the retirement system the actuarial reserve lump sum purchase amount within  
18 thirty-six months after the date on which employer and employee contributions are first received by  
19 the retirement system for the member for the first time he or she again becomes an employee of a  
20 participating public employer and completes at least twelve consecutive months of contributing  
21 service, and while he or she continues to be in the employ of a participating public employer and



1 contributing to the retirement system.

2 (6) Notwithstanding subsection (b)(4)(A), a member who becomes an employee of a  
3 participating public employer after such a period of active military duty and break in service as an  
4 elected official shall be considered to have met the requirement of subsection (b)(4)(A) after  
5 remaining employed for the first twelve consecutive months of his or her term after again becoming  
6 an employee, regardless of whether a salary is paid to the employee for each such month. Such an  
7 individual must elect to begin participating in the retirement system immediately upon again  
8 becoming an employee of a participating public employer after the period of active military duty and  
9 break in service.

10 (7) For purposes of this subsection (b), the following definitions apply:

11 (A) "Active military duty" means full-time active duty in the Armed Forces of the United  
12 States for a period of thirty or more consecutive calendar days. Active military duty does not include  
13 inactive duty of any kind.

14 (B) "Actuarial reserve lump sum purchase amount" means the purchase annuity rate  
15 multiplied by the purchase accrued benefit, calculated as of the calculation month, plus annual  
16 interest accruing at seven and one-half percent from the calculation month through the purchase  
17 month, compounded monthly.

18 (C) "Armed Forces of the United States" means the Army, Navy, Air Force, Marine Corps,  
19 and Coast Guard, the Reserve components thereof, and the National Guard of the United States or  
20 the National Guard of a State or Territory when members of the same are on full-time active duty  
21 pursuant to Title 10 or Title 32 of the United States Code.

1        (D) "Calculation month" means the month immediately following the month in which the  
2 member completes the twelve consecutive months of contributory service with a participating public  
3 employer required by subsection (b)(1)(A), (b)(2), (b)(3), (b)(4)(A), (b)(5) or (b)(6) of this section,  
4 as applicable.

5        (E) "Purchase accrued benefit" means two percent times the purchase military service times  
6 the purchase average monthly salary.

7        (F) "Purchase age" means the age of the employee in years and completed months as of the  
8 first day of the calculation month.

9        (G) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of the  
10 calculation month based on the following actuarial assumptions: Interest rate of seven and one-half  
11 percent; mortality of the 1971 group annuity mortality table, fifty percent blended male and female  
12 rates, applied on a unisex basis to all members; if purchase age is under age sixty, a deferred annuity  
13 factor with payments commencing at age sixty; and if purchase age is sixty or over, an immediate  
14 annuity factor with payments starting at the purchase age.

15        (H) "Purchase average monthly salary" means the average monthly salary of the member  
16 during the months two through twelve of the twelve consecutive month period required by  
17 subsection (b)(1)(A), (b)(2), (b)(3), (b)(4)(A), (b)(5) or (b)(6) of this section, as applicable.

18        (I) "Purchase military service" means the amount of military service being purchased by the  
19 employee in months up to the sixty month maximum, calculated in accordance with subsection  
20 (b)(9) of this section.

21        (J) "Purchase month" means the month in which the employee deposits the actuarial reserve

1 lump sum purchase amount into the plan trust fund in full payment of the service credit being  
2 purchased.

3 (8) A member may purchase military service credit for a period of active military duty  
4 pursuant to this subsection only if the member received an honorable discharge for such period.  
5 Anything other than an honorable discharge, including, but not limited to, a general or under  
6 honorable conditions discharge, an entry-level separation discharge, an other than honorable  
7 conditions discharge, or a dishonorable discharge, shall disqualify the member from receiving  
8 military service credit for the period of service.

9 (9) To calculate the amount of military service credit a member may purchase, the board shall  
10 add the total number of days in each period of a member's active military duty eligible to be  
11 purchased, divide the total by thirty, and round up or down to the nearest integer (fractions of 0.5  
12 shall be rounded up), in order to yield the total number of months of military service credit a member  
13 may purchase, subject to the sixty month maximum. A member may purchase all or part of the  
14 maximum amount of military service credit he or she is eligible for, in one-month increments.

15 (10) To receive credit, a member must submit a request to purchase military service credit  
16 to the board, on such form or in such other manner as shall be required by the board, within the  
17 twelve consecutive month period required by subsection (b)(1)(A), (b)(2), (b)(3), (b)(4)(A), (b)(5)  
18 or (b)(6) of this section, as applicable. The board shall then calculate the actuarial reserve lump sum  
19 purchase amount, which amount must be paid by the member within the thirty-six month period  
20 required by subsection (b)(1)(C), (b)(2), (b)(4)(C), or (b)(5) of this section, as applicable. A member  
21 purchasing military service credit pursuant to this subsection must do so in a single, lump sum

1 payment; the board may not accept partial, installment or other similar payments.

2 (11) The board shall require a member requesting military service credit to provide official  
3 documentation establishing that the requirements set forth in this subsection have been met.

4 (12) Military service credit purchased pursuant to this subsection may not be considered  
5 contributing service credit or contributory service for purposes of this article.

6 (13) If a member who has purchased military service credit pursuant to this subsection is  
7 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of this  
8 article, he or she shall also receive a refund of the actuarial reserve lump sum purchase amount he  
9 or she paid to the retirement system to purchase military service credit, together with regular interest  
10 on such amount.

11 (c) No period of military service may be used to obtain credit in more than one retirement  
12 system administered by the board and once used in any system, a period of military service may not  
13 be used again in any other system.

14 (d) Notwithstanding the preceding provisions of this section, contributions, benefits and  
15 service credit with respect to qualified military service shall be provided in accordance with Section  
16 414(u) of the Internal Revenue Code and the federal Uniformed Services Employment and  
17 Reemployment Rights Act (USERRA), and regulations promulgated thereunder, as the same may  
18 be amended from time to time. For purposes of this section, "qualified military service" has the same  
19 meaning as in Section 414(u) of the Internal Revenue Code. ~~No military service credit may be used~~  
20 ~~in more than one retirement system administered by the Consolidated Public Retirement Board and~~  
21 ~~once used in any system, may not be used again in any other system.~~

1        (e) In any case of doubt as to the period of service to be credited a member under the  
2 provisions of this section, the board has final power to determine the period. Notwithstanding the  
3 provisions of section three-a, article ten of this chapter, the provisions of this section are not subject  
4 to liberal construction. The board is authorized to determine all questions and make all decisions  
5 relating to this section and, pursuant to the authority granted to the board in section one, article ten-d  
6 of this chapter, may ~~promulgate rules relating to contributions, benefits and service credit to comply~~  
7 ~~with Section 414(u) of the Internal Revenue Code~~ propose rules to administer this section for  
8 legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this  
9 code.

10 **§5-10-15a. Retirement credited service through member's use, as option, of accrued annual**  
11 **or sick leave days.**

12        (a) Any member accruing annual leave or sick leave days may, after the effective date of this  
13 section June 27, 1988, elect to use such the days at the time of retirement to acquire additional  
14 credited service in this retirement system. Except as provided in subsection (b) of this section, such  
15 the accrued days shall be applied on the basis of two workdays credit granted for each one day of  
16 such accrued annual or sick leave days, with each month of retirement service credit to equal twenty  
17 workdays and with any remainder of ten workdays or more to constitute a full month of additional  
18 credit and any remainder of less than ten workdays to be dropped and not used, notwithstanding any  
19 provisions of the code to the contrary, including section twelve, article sixteen of this chapter. Such  
20 credited service shall be allowed and not deemed to controvert the requirement of no more than  
21 twelve months credited service in any year's period.

1        (b) For those persons who first become members of the retirement system on or after July 1,  
2 2010, accrued annual or sick days may not be applied to acquire additional credited service.

3 **§5-10-20. Voluntary retirement.**

4        (a) Except as provided in subsection (b) of this section, any member who has attained or  
5 attains age sixty years and has five or more years of credited service in force, at least one year of  
6 which he or she was a contributing member of the retirement system, may retire upon his or her  
7 written application filed with the board of trustees setting forth at what time, not less than thirty days  
8 nor more than ninety days subsequent to the execution and filing thereof ~~he~~ the member desires to  
9 be retired: *Provided*, That on and after June 1, 1986, any person who becomes a new member of this  
10 retirement system shall, in qualifying for retirement hereunder, have five or more years of service,  
11 all of which years shall be actual, contributory ones. Upon retirement, the member shall receive an  
12 annuity provided for in section twenty-two of this article.

13        (b) Any person who first becomes a member of the retirement system on or after July 1, 2010,  
14 may retire upon written application as provided in subsection (a) of this section upon attaining the  
15 age of sixty-two with ten or more years of service, all of which must be actual, contributing years.

16 **§5-10-21. Deferred retirement and early retirement.**

17        (a) Except as provided in section twenty-one-a of this article, any member who has five or  
18 more years of credited service in force, of which at least three years are contributing service, and who  
19 leaves the employ of a participating public employer prior to his or her attaining age sixty years for  
20 any reason except his or her disability retirement or death, is entitled to an annuity computed  
21 according to section twenty-two of this article, as that section was in force as of the date of his or her

1 separation from the employ of a participating public employer: *Provided*, That he or she does not  
2 withdraw his or her accumulated contributions from the members' deposit fund: *Provided, however*,  
3 That on and after July 1, 2002, any person who becomes a new member of this retirement system  
4 shall, in qualifying for retirement under this section, have five or more years of service, all of which  
5 years shall be actual, contributory ones. His or her annuity shall begin the first day of the calendar  
6 month next following the month in which his or her application for same is filed with the Board of  
7 Trustees on or after his or her attaining age sixty-two years.

8 (b) Any member who qualifies for deferred retirement benefits in accordance with subsection  
9 (a) of this section and has ten or more years of credited service in force and who has attained age  
10 fifty-five as of the date of his or her separation, may, prior to the effective date of his or her  
11 retirement, but not thereafter, elect to receive the actuarial equivalent of his or her deferred  
12 retirement annuity as a reduced annuity commencing on the first day of any calendar month between  
13 his or her date of separation and his or her attainment of age sixty-two years and payable throughout  
14 his or her life.

15 (c) Any member who qualifies for deferred retirement benefits in accordance with subsection  
16 (a) of this section and has twenty or more years of credited service in force may elect to receive the  
17 actuarial equivalent of his or her deferred retirement annuity as a reduced annuity commencing on  
18 the first day of any calendar month between his or her fifty-fifth birthday and his or her attainment  
19 of age sixty-two years and payable throughout his or her life.

20 (d) Notwithstanding any of the other provisions of this section or of this article, except  
21 sections twenty-seven-a and twenty-seven-b of this article, and pursuant to rules promulgated by the

1 board, and except for a person who first becomes a member of the retirement system on or after July  
2 1, 2010, any member who has thirty or more years of credited service in force, at least three of which  
3 are contributing service, and who elects to take early retirement, which for the purposes of this  
4 subsection means retirement prior to age sixty, whether an active employee or a separated employee  
5 at the time of application, is entitled to the full computation of annuity according to section  
6 twenty-two of this article, as that section was in force as of the date of retirement application, but  
7 with the reduced actuarial equivalent of the annuity the member would have received if his or her  
8 benefit had commenced at age sixty when he or she would have been entitled to full computation of  
9 benefit without any reduction.

10 (e) Notwithstanding any of the other provisions of this section or of this article, except  
11 sections twenty-seven-a and twenty-seven-b of this article, and except for a person who first becomes  
12 a member of the retirement system on or after July 1, ~~2012~~ 2010, any member of the retirement  
13 system may retire with full pension rights, without reduction of benefits, if he or she is at least  
14 fifty-five years of age and the sum of his or her age plus years of contributing service and limited  
15 credited service, as defined in section two of this article, equals or exceeds eighty: *Provided*, That  
16 on and after July 1, 2011, any person who becomes a new member of this retirement system shall,  
17 in qualifying for retirement under this subsection, have five or more years of service, all of which  
18 years shall be actual, contributory ones. The member's annuity shall begin the first day of the  
19 calendar month immediately following the calendar month in which his or her application for the  
20 annuity is filed with the board.

21 **§5-10-21a. Deferred retirement and early retirement for new members as of July 1, 2010.**



1           (a) Any person who first becomes a member of the retirement system on or after July 1, 2010,  
2 who has ten or more years of contributing service and who leaves the employ of a participating  
3 public employer prior to attaining age sixty-two years for any reason except his or her disability or  
4 death, is entitled to an annuity computed according to section twenty-two of this article, as that  
5 section was in force as of the date of his or her separation from the employ of a participating public  
6 employer: *Provided*, That he or she does not withdraw his or her accumulated contributions from  
7 the members' deposit fund. *Provided, however*, That his or her annuity shall begin the first day of  
8 the calendar month next following the month in which his or her application for same is filed with  
9 the board of trustees on or after his or her attaining age sixty-four years.

10           (b) Any member who qualifies for deferred retirement benefits in accordance with subsection  
11 (a) of this subsection and has twenty or more years of contributing service in force is entitled to an  
12 annuity computed as in subsection (a) of this section: *Provided*, That his or her annuity shall begin  
13 the first day of the calendar month next following the month in which his or her application for same  
14 is filed with the board of trustees on or after his or attaining age sixty-three.

15           (c) Notwithstanding any of the other provisions of this section or of this article, except  
16 sections twenty-seven-a and twenty-seven-b of this article, and pursuant to rules promulgated by the  
17 board, any member who first becomes a member of the retirement system on or after July 1, 2010,  
18 and has ten or more years of contributing service in force, and who elects to take early retirement,  
19 which for the purposes of this subsection means retirement following attainment of age sixty but  
20 prior to attaining age sixty-two, is entitled to the full computation of annuity according to section  
21 twenty-two of this article, as that section was in force as of the date of retirement application, but

1 with the reduced actuarial equivalent of the annuity the member would have received if his or her  
2 benefit had commenced at age sixty-two when he or she would have been entitled to full  
3 computation of benefit without any reduction: *Provided*, That his or her annuity shall begin the first  
4 day of the calendar month next following the month in which his or her application for same is filed  
5 with the board of trustees on or after his or attaining age sixty.

6 (d) Any member who first becomes a member of the retirement system on or after July  
7 1,2010, and has twenty or more years of contributing service in force, and who elects to take early  
8 retirement, which for the purposes of this subsection means retirement following attainment of age  
9 fifty-seven but prior to attaining age sixty-two, is entitled to the full computation of annuity  
10 according to section twenty-two of this article, as that section was in force as of the date of  
11 retirement application, but with the reduced actuarial equivalent of the annuity the member would  
12 have received if his or her benefit had commenced at age sixty-two when he or she would have been  
13 entitled to full computation of benefit without any reduction: *Provided*, That his or her annuity shall  
14 begin the first day of the calendar month next following the month in which his or her application  
15 for same is filed with the board of trustees on or after his or attaining age fifty-seven.

16 (e) Any member who first becomes a member of the retirement system on or after July 1,  
17 2010, and has thirty or more years of contributing service in force, and who elects to take early  
18 retirement, which for the purposes of this subsection means retirement following attainment of age  
19 fifty-five but prior to attaining age sixty-two, is entitled to the full computation of annuity according  
20 to section twenty-two of this article, as that section was in force as of the date of retirement  
21 application, but with the reduced actuarial equivalent of the annuity the member would have received

1 if his or her benefit had commenced at age sixty-two when he or she would have been entitled to full  
2 computation of benefit without any reduction: *Provided*, That his or her annuity shall begin the first  
3 day of the calendar month next following the month in which his or her application for same is filed  
4 with the board of trustees on or after his or attaining age fifty-five.

5 **§5-10-29. Members' deposit fund; members' contributions; forfeitures.**

6 (a) The members' deposit fund is hereby created. It shall be the fund in which shall be  
7 accumulated, at regular interest, the contributions deducted from the compensation of members, and  
8 from which refunds of accumulated contributions shall be paid and transfers made as provided in  
9 this section.

10 (b) The contributions of a member to the retirement system (including any member of the  
11 Legislature, except as otherwise provided in subsection (g) of this section) shall be a sum of not less  
12 than three and five-tenths percent of his or her annual ~~compensations~~ compensation but not more  
13 than four and ~~five-tenths~~ six tenths percent of his or her annual ~~compensations~~ compensation, as  
14 determined by the board of trustees: *Provided*, That for persons who first become members of the  
15 retirement system on or after July 1, 2010, the contributions to the system shall be six percent of his  
16 or her annual compensation. The said contributions shall be made notwithstanding that the  
17 minimum salary or wages provided by law for any member shall be thereby changed. Each member  
18 shall be deemed to consent and agree to the deductions made and provided for herein. Payment of  
19 a member's compensation less said deductions shall be a full and complete discharge and acquittance  
20 of all claims and demands whatsoever for services rendered by him or her to a participating public  
21 employer, except as to benefits provided by this article.

1           (c) The officer or officers responsible for making up the payrolls for payroll units of the state  
2 government and for each of the other participating public employers shall cause the contributions,  
3 provided in subsection (b) of this section, to be deducted from the compensations of each member  
4 in the employ of the participating public employer, on each and every payroll, for each and every  
5 payroll period, from the date the member enters the retirement system to the date his or her  
6 membership terminates. When deducted, each of said amounts shall be paid by the participating  
7 public employer to the retirement system; said payments to be made in such manner and form, and  
8 in such frequency, and shall be accompanied by such supporting data, as the board of trustees shall  
9 from time to time prescribe. When paid to the retirement system, each of said amounts shall be  
10 credited to the members' deposit fund account of the member from whose compensations said  
11 contributions were deducted.

12           (d) In addition to the contributions deducted from the compensations of a member, as  
13 heretofore provided, a member shall deposit in the members' deposit fund, by a single contribution  
14 or by an increased rate of contribution as approved by the board of trustees, the amounts he or she  
15 may have withdrawn therefrom and not repaid thereto, together with regular interest from the date  
16 of withdrawal to the date of repayment. In no case shall a member be given credit for service  
17 rendered prior to the date he or she withdrew his or her contributions or accumulated contributions,  
18 as the case may be, until he or she returns to the members' deposit fund all amounts due the said  
19 fund by him or her.

20           (e) Upon the retirement of a member, or if a survivor annuity becomes payable on account  
21 of his or her death, in either event his or her accumulated contributions standing to his or her credit

1 in the members' deposit fund shall be transferred to the retirement reserve fund.

2 (f) In the event an employee's membership in the retirement system terminates and no  
3 annuity becomes or will become payable on his or her account, any accumulated contributions  
4 standing to his or her credit in the members' deposit fund, unclaimed by the said employee, or his  
5 or her legal representative, within three years from and after the date his or her membership  
6 terminated, shall be transferred to the income fund.

7 (g) Any member of the Legislature who is a member of the retirement system and with  
8 respect to whom the term "final average salary" includes a multiple of eight, pursuant to the  
9 provisions of subdivision ~~(15)~~ (13), section two of this article, shall contribute to the retirement  
10 system on the basis of his or her legislative compensation the sum of \$540 each year he or she  
11 participates in the retirement system as a member of the Legislature.

12 (h) Notwithstanding any other provisions of this article, forfeitures under the system shall not  
13 be applied to increase the benefits any member would otherwise receive under the system.

14 **ARTICLE 13. PUBLIC EMPLOYEES' AND TEACHERS' RECIPROCAL SERVICE**  
15 **CREDIT ACT.**

16 **§5-13-2. Definitions.**

17 The following words and phrases as used in this article, unless a different meaning is clearly  
18 indicated by the context, shall have the following meanings:

19 (a) "Accumulated contributions" means the sum of the amounts deducted from the  
20 compensation of a member and credited to his or her individual account in a state system, together  
21 with interest, if any, credited thereto.

1 (b) "Annuity" means the annuity payable by a state system.

2 (c) "Member" means a member of either the West Virginia Public Employees Retirement  
3 System or the State Teachers Retirement System. The term "member" does not include any person  
4 who has retired under either state system.

5 (d) "Public final average salary" means a member's final average salary computed according  
6 to the law governing the public system. In computing his or her public final average salary, the  
7 compensation, if any, received by the member for services rendered in positions covered by the  
8 teacher system shall be used in the same manner as if the compensation were received for services  
9 covered by the public system: Provided, That for persons who first became members of the

10 retirement system on or after July 1, 2010, no compensation for services rendered in positions  
11 covered by the teacher system may be used to compute his or her public system final average salary.

12 (e) "Public system" means the West Virginia Public Employees Retirement System  
13 established in article ten, chapter five of this code.

14 (f) "Reciprocal service credit" for a member of the public system who subsequently becomes  
15 a member of the teacher system, or vice versa, means the sum of his or her credited service in force  
16 acquired as a member of the public system and his or her credited service in force acquired as a  
17 member of the teacher system.

18 (g) "State system" means the West Virginia Public Employees Retirement System and the  
19 State Teachers Retirement System.

20 (h) "Teacher final average salary" means a member's final average salary computed according  
21 to the law governing the teacher system. In computing his or her teacher final average salary, the

1 compensation, if any, received by the member for services rendered in positions covered by the  
 2 public system shall be used in the same manner as if the compensation were received for services  
 3 covered by the teacher system; Provided, That for persons who first became members of the  
 4 retirement system on or after July 1, 2010, no compensation for services rendered in positions  
 5 covered by the public system may be used to compute his or her teacher system final average salary.

6 (i) "Teacher system" means the State Teachers Retirement System established in article  
 7 seven-a, chapter eighteen of this code.

8 (j) The masculine gender includes the feminine, and words of the singular number with  
 9 respect to persons include the plural number, and vice versa.

#### 10 **ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

11 **§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage;**  
 12 **involuntary employee termination coverage; conversion of annual leave and sick**  
 13 **leave authorized for health or retirement benefits; authorization for retiree**  
 14 **participation; continuation of health insurance for surviving dependents of**  
 15 **deceased employees; requirement of new health plan, limiting employer**  
 16 **contribution.**

17 (a) *Cost-sharing.* -- The director shall provide under any contract or contracts entered into  
 18 under the provisions of this article that the costs of any group hospital and surgical insurance, group  
 19 major medical insurance, group prescription drug insurance, group life and accidental death  
 20 insurance benefit plan or plans shall be paid by the employer and employee.

21 (b) *Spouse and dependent coverage.* -- Each employee is entitled to have his or her spouse

1 and dependents included in any group hospital and surgical insurance, group major medical  
2 insurance or group prescription drug insurance coverage to which the employee is entitled to  
3 participate: *Provided*, That the spouse and dependent coverage is limited to excess or secondary  
4 coverage for each spouse and dependent who has primary coverage from any other source. For  
5 purposes of this section, the term "primary coverage" means individual or group hospital and surgical  
6 insurance coverage or individual or group major medical insurance coverage or group prescription  
7 drug coverage in which the spouse or dependent is the named insured or certificate holder. For the  
8 purposes of this section, "dependent" includes an eligible employee's unmarried child or stepchild  
9 under the age of twenty-five if that child or stepchild meets the definition of a "qualifying child" or  
10 a "qualifying relative" in Section 152 of the Internal Revenue Code. The director may require proof  
11 regarding spouse and dependent primary coverage and shall adopt rules governing the nature,  
12 discontinuance and resumption of any employee's coverage for his or her spouse and dependents.

13       (c) *Continuation after termination.* -- If an employee participating in the plan is terminated  
14 from employment involuntarily or in reduction of work force, the employee's insurance coverage  
15 provided under this article shall continue for a period of three months at no additional cost to the  
16 employee and the employer shall continue to contribute the employer's share of plan premiums for  
17 the coverage. An employee discharged for misconduct shall not be eligible for extended benefits  
18 under this section. Coverage may be extended up to the maximum period of three months, while  
19 administrative remedies contesting the charge of misconduct are pursued. If the discharge for  
20 misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee.  
21 If the employee is again employed or recalled to active employment within twelve months of his or



1 her prior termination, he or she shall not be considered a new enrollee and may not be required to  
2 again contribute his or her share of the premium cost, if he or she had already fully contributed such  
3 share during the prior period of employment.

4       (d) *Conversion of accrued annual and sick leave for extended insurance coverage upon*  
5 *retirement for employees who elected to participate in the plan before July, 1988.* -- Except as  
6 otherwise provided in subsection (g) of this section, when an employee participating in the plan, who  
7 elected to participate in the plan before July 1, 1988, is compelled or required by law to retire before  
8 reaching the age of sixty-five, or when a participating employee voluntarily retires as provided by  
9 law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an  
10 extension of the insurance coverage provided by this article, according to the following formulae:  
11 The insurance coverage for a retired employee shall continue one additional month for every two  
12 days of annual leave or sick leave, or both, which the employee had accrued as of the effective date  
13 of his or her retirement. For a retired employee, his or her spouse and dependents, the insurance  
14 coverage shall continue one additional month for every three days of annual leave or sick leave, or  
15 both, which the employee had accrued as of the effective date of his or her retirement.

16       (e) *Conversion of accrued annual and sick leave for extended insurance coverage upon*  
17 *retirement for employees who elected to participate in the plan after June, 1988.* -- Notwithstanding  
18 subsection (d) of this section, and except as otherwise provided in subsections (g) and (l) of this  
19 section when an employee participating in the plan who elected to participate in the plan on and after  
20 July 1, 1988, is compelled or required by law to retire before reaching the age of sixty-five, or when  
21 the participating employee voluntarily retires as provided by law, that employee's annual leave or

1 sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided  
2 by this article, for periods and scope of coverage determined according to the following formulae:  
3 (1) One additional month of single retiree coverage for every two days of annual leave or sick leave,  
4 or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one  
5 additional month of coverage for a retiree, his or her spouse and dependents for every three days of  
6 annual leave or sick leave, or both, which the employee had accrued as of the effective date of his  
7 or her retirement. The remaining premium cost shall be borne by the retired employee if he or she  
8 elects the coverage. For purposes of this subsection, an employee who has been a participant under  
9 spouse or dependent coverage and who reenters the plan within twelve months after termination of  
10 his or her prior coverage shall be considered to have elected to participate in the plan as of the date  
11 of commencement of the prior coverage. For purposes of this subsection, an employee shall not be  
12 considered a new employee after returning from extended authorized leave on or after July 1, 1988.

13 (f) *Increased retirement benefits for retired employees with accrued annual and sick leave.*  
14 -- In the alternative to the extension of insurance coverage through premium payment provided in  
15 subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee  
16 participating in the plan may be applied, on the basis of two days' retirement service credit for each  
17 one day of accrued annual and sick leave, toward an increase in the employee's retirement benefits  
18 with those days constituting additional credited service in computation of the benefits under any state  
19 retirement system: Provided, That for a person who first becomes a member of the Teachers  
20 Retirement System on or after July 1, 2010, accrued annual and sick leave of an employee  
21 participating in the plan may not be applied for retirement service credit. However, the additional

1 credited service shall not be used in meeting initial eligibility for retirement criteria, but only as  
2 additional service credited in excess thereof.

3       (g) *Conversion of accrued annual and sick leave for extended insurance coverage upon*  
4 *retirement for certain higher education employees.* -- Except as otherwise provided in subsection  
5 (l) of this section, when an employee, who is a higher education full-time faculty member employed  
6 on an annual contract basis other than for twelve months, is compelled or required by law to retire  
7 before reaching the age of sixty-five, or when such a participating employee voluntarily retires as  
8 provided by law, that employee's insurance coverage, as provided by this article, shall be extended  
9 according to the following formulae: The insurance coverage for a retired higher education full-time  
10 faculty member, formerly employed on an annual contract basis other than for twelve months, shall  
11 continue beyond the effective date of his or her retirement one additional year for each three and  
12 one-third years of teaching service, as determined by uniform guidelines established by the  
13 University of West Virginia Board of Trustees and the board of directors of the state college system,  
14 for individual coverage, or one additional year for each five years of teaching service for "family"  
15 coverage.

16       (h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the  
17 conditions of the "retired employee" definition in section two of this article, shall be eligible for  
18 insurance coverage under the same terms and provisions of this article. The retired employee's  
19 premium contribution for any such coverage shall be established by the finance board.

20       (i) *Retiree participation.* -- All retirees under the provisions of this article, including those  
21 defined in section two of this article; those retiring prior to April 21, 1972; and those hereafter

1 retiring are eligible to obtain health insurance coverage. The retired employee's premium  
2 contribution for the coverage shall be established by the finance board.

3 (j) *Surviving spouse and dependent participation.* -- A surviving spouse and dependents of  
4 a deceased employee, who was either an active or retired employee participating in the plan just prior  
5 to his or her death, are entitled to be included in any comprehensive group health insurance coverage  
6 provided under this article to which the deceased employee was entitled, and the spouse and  
7 dependents shall bear the premium cost of the insurance coverage. The finance board shall establish  
8 the premium cost of the coverage.

9 (k) *Elected officials.* -- In construing the provisions of this section or any other provisions  
10 of this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent  
11 that elected public officials be provided any sick leave, annual leave or personal leave, and the  
12 enactment of this section is based upon the fact and assumption that no statutory or inherent authority  
13 exists extending sick leave, annual leave or personal leave to elected public officials and the very  
14 nature of those positions preclude the arising or accumulation of any leave, so as to be thereafter  
15 usable as premium paying credits for which the officials may claim extended insurance benefits.

16 (l) *Participation of certain former employees.* -- An employee, eligible for coverage under  
17 the provisions of this article who has twenty years of service with any agency or entity participating  
18 in the public employees insurance program or who has been covered by the public employees  
19 insurance program for twenty years may, upon leaving employment with a participating agency or  
20 entity, continue to be covered by the program if the employee pays one hundred five percent of the  
21 cost of retiree coverage: *Provided,* That the employee shall elect to continue coverage under this

1 subsection within two years of the date the employment with a participating agency or entity is  
2 terminated.

3       (m) *Prohibition on conversion of accrued annual and sick leave for extended coverage upon*  
4 *retirement for new employees who elect to participate in the plan after June, 2001.* -- Any employee  
5 hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued annual or  
6 sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement.  
7 This prohibition does not apply to the conversion of accrued annual or sick leave for increased  
8 retirement benefits, as authorized by this section: *Provided*, That any person who has participated  
9 in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection if he or she  
10 becomes reemployed with an employer participating in the plan within two years following his or  
11 her separation from employment and he or she elects to participate in the plan upon his or her  
12 reemployment.

13       (n) *Prohibition on conversion of accrued years of teaching service for extended coverage*  
14 *upon retirement for new employees who elect to participate in the plan July, 2009.* -- Any employee  
15 hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of  
16 teaching service toward the cost of premiums for extended insurance coverage upon his or her  
17 retirement.

18                                   **CHAPTER 15. PUBLIC SAFETY.**

19 **ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

20 **§15-2A-21. Retirement credited service through member's use, as option, of accrued annual**  
21 **or sick leave days.**

1 Any member accruing annual leave or sick leave days may, after ~~the effective date of this~~  
2 ~~section~~ April 9, 2005, elect to use the days at the time of retirement to acquire additional credited  
3 service in this retirement system. The days shall be applied on the basis of two workdays' credit  
4 granted for each one day of accrued annual or sick leave days, with each month of retirement service  
5 credit to equal twenty workdays and with any remainder of ten workdays or more to constitute a full  
6 month of additional credit and any remainder of less than ten workdays to be dropped and not used,  
7 notwithstanding any provisions of the code to the contrary: Provided, That for a person who first  
8 becomes a member of the retirement system on or after July 1, 2010, accrued annual and sick leave  
9 days may not be applied to acquire additional credited service. The credited service shall be allowed  
10 and not considered to controvert the requirement of no more than twelve months' credited service  
11 in any year's period.

## 12 CHAPTER 18. EDUCATION.

### 13 ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

#### 14 §18-7A-17. Statement and computation of teachers' service; qualified military service.

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

21 ~~(b) For the purpose of this article, the retirement board shall grant prior service credit to~~

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

19       ~~(e)~~ (b) For service as a teacher in the employment of the federal government, or a state or  
20 territory of the United States, or a governmental subdivision of that state or territory, the retirement  
21 board shall grant credit to the member: *Provided*, That the member shall pay to the system twelve

1 percent of that member's gross salary earned during the first full year of current employment whether  
2 a member of the Teachers' Retirement System or the Teachers' Defined Contribution Retirement  
3 System, times the number of years for which credit is granted, plus interest at a rate to be determined  
4 by the retirement board. The interest shall be deposited in the reserve fund and service credit granted  
5 at the time of retirement shall not exceed the lesser of ten years or fifty percent of the member's total  
6 service as a teacher in West Virginia. Any purchase of out-of-state service, as provided in this article,  
7 shall not be used to establish eligibility for a retirement allowance and the retirement board shall  
8 grant credit for the purchased service as additional service only: *Provided, however,* That a  
9 purchase of out-of-state service is prohibited if the service is used to obtain a retirement benefit from  
10 another retirement system: *Provided further,* That salaries paid to members for service prior to  
11 entrance into the retirement system shall not be used to compute the average final salary of the  
12 member under the retirement system.

13       ~~(c)~~ (c) No members shall be considered absent from service while serving as a member or  
14 employee of the Legislature of the State of West Virginia during any duly constituted session of that  
15 body or while serving as an elected member of a county commission during any duly constituted  
16 session of that body.

17       ~~(e)~~ (d) No member shall be considered absent from service as a teacher or nonteacher while  
18 serving as an officer with a statewide professional teaching association, or who has served in that  
19 capacity, and no retirant, who served in that capacity while a member, shall be considered to have  
20 been absent from service as a teacher by reason of that service: *Provided,* That the period of service  
21 credit granted for that service shall not exceed ten years: *Provided, however,* That a member or



1 retirant who is serving or has served as an officer of a statewide professional teaching association  
2 shall make deposits to the Teachers Retirement System, for the time of any absence, in an amount  
3 double the amount which he or she would have contributed in his or her regular assignment for a like  
4 period of time.

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

20       ~~(g)~~ (f) For service as a teacher in an elementary or secondary parochial school, located within  
21 this state and fully accredited by the West Virginia Department of Education, the retirement board

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

12       ~~(h)~~ (g) Active members who previously worked in CETA (Comprehensive Employment and  
13 Training Act) may receive service credit for time served in that capacity: *Provided*, That in order to  
14 receive service credit under the provisions of this subsection the following conditions must be met:  
15 (1) The member must have moved from temporary employment with the participating employer to  
16 permanent full-time employment with the participating employer within one hundred twenty days  
17 following the termination of the member's CETA employment; (2) the retirement board must receive  
18 evidence that establishes to a reasonable degree of certainty as determined by the retirement board  
19 that the member previously worked in CETA; and (3) the member shall pay to the retirement board  
20 an amount equal to the employer and employee contribution plus interest at the amount set by the  
21 retirement board for the amount of service credit sought pursuant to this subsection: *Provided*,

1 *however*, That the maximum service credit that may be obtained under the provisions of this  
2 subsection is two years: *Provided further*, That a member must apply and pay for the service credit  
3 allowed under this subsection and provide all necessary documentation by March 31,2003: *And*  
4 *provided further*, That the retirement board shall exercise due diligence to notify affected employees  
5 of the provisions of this subsection.

6       ~~(h)~~ (h) If a member is not eligible for prior service credit or pension as provided in this article,  
7 then his or her prior service shall not be considered a part of his or her total service.

8       ~~(i)~~ (i) A member who withdrew from membership may regain his or her former membership  
9 rights as specified in section thirteen of this article only in case he or she has served two years since  
10 his or her last withdrawal.

11       ~~(j)~~ (j) Subject to the provisions of subsections (a) through (l), inclusive, of this section, the  
12 retirement board shall verify as soon as practicable the statements of service submitted. The  
13 retirement board shall issue prior service certificates to all persons eligible for the certificates under  
14 the provisions of this article. The certificates shall state the length of the prior service credit, but in  
15 no case shall the prior service credit exceed forty years.

16       ~~(k)~~ (k) Notwithstanding any provision of this article to the contrary, when a member is or has  
17 been elected to serve as a member of the Legislature, and the proper discharge of his or her duties  
18 of public office require that member to be absent from his or her teaching or administrative duties,  
19 the time served in discharge of his or her duties of the legislative office are credited as time served  
20 for purposes of computing service credit: *Provided*, That the retirement board may not require any  
21 additional contributions from that member in order for the retirement board to credit him or her with

1 the contributing service credit earned while discharging official legislative duties: *Provided,*  
2 *however,* That nothing in this section may be construed to relieve the employer from making the  
3 employer contribution at the member's regular salary rate or rate of pay from that employer on the  
4 contributing service credit earned while the member is discharging his or her official legislative  
5 duties. These employer payments shall commence as of June 1,2000: *Provided further,* That any  
6 member to which the provisions of this subsection apply may elect to pay to the retirement board an  
7 amount equal to what his or her contribution would have been for those periods of time he or she was  
8 serving in the Legislature. The periods of time upon which the member paid his or her contribution  
9 shall then be included for purposes of determining his or her final average salary as well as for  
10 determining years of service: *And provided further,* That a member using the provisions of this  
11 subsection is not required to pay interest on any contributions he or she may decide to make.

12       ~~(m)~~ (l) The Teachers Retirement System shall grant service credit to any former member of  
13 the State Police Death, Disability and Retirement System who has been a contributing member for  
14 more than three years, for service previously credited by the State Police Death, Disability and  
15 Retirement System; and: (1) Shall require the transfer of the member's contributions to the Teachers  
16 Retirement System; or (2) shall require a repayment of the amount withdrawn any time prior to the  
17 member's retirement: *Provided,* That the member shall add to the amounts transferred or repaid  
18 under this paragraph an amount which is sufficient to equal the contributions he or she would have  
19 made had the member been under the Teachers Retirement System during the period of his or her  
20 membership in the State Police Death, Disability and Retirement System plus interest at a rate to be  
21 determined by the retirement board compounded annually from the date of withdrawal to the date

1 of payment. The interest paid shall be deposited in the reserve fund.

2 **§18-7A-17a. Qualified military service.**

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

1 system administered by the Consolidated Public Retirement Board.

2 (b) Subsection (a) does not apply to any member who first becomes an employee of a  
3 participating public employer on or after July 1, 2010. This subsection (b) does not apply to any  
4 member who first became an employee of a participating public employer before July 1, 2010.

5 (1) A member who first becomes an employee of a participating public employer on or after  
6 July 1, 2010, may purchase up to sixty months of military service credit for time served in active  
7 military duty prior to first becoming an employee of a participating public employer if all of the  
8 following conditions are met:

9 (A) The member has completed at least twelve consecutive months of contributory service;

10 (B) The active military duty occurs prior to the date on which the member first becomes an  
11 employee of a participating public employer; and

12 (C) The member pays to the retirement system the actuarial reserve lump sum purchase  
13 amount within thirty-six months after the date on which employer and employee contributions are  
14 first received by the retirement system for the member and while he or she continues to be in the  
15 employ of a participating public employer and contributing to the retirement system.

16 (2) Notwithstanding subsection (b)(1)(A), a member who first becomes an employee of a  
17 participating public employer on or after July 1, 2015, but who does not remain employed and  
18 contributing to the retirement system for at least twelve consecutive months after his or her initial  
19 employment, shall be considered to have met the requirement of subsection (b)(1)(A) the first time  
20 he or she becomes an employee of a participating public employer and completes at least twelve  
21 consecutive months of contributing service. Such a member shall be considered to have met the

1 requirement of subsection (b)(1)(C) if he or she pays to the retirement system the actuarial reserve  
2 lump sum purchase amount within thirty-six months after the date on which employer and employee  
3 contributions are first received by the retirement system for the member the first time he or she  
4 becomes an employee of a participating public employer and completes at least twelve consecutive  
5 months of contributing service, and while he or she continues to be in the employ of a participating  
6 public employer and contributing to the retirement system.

7       (3) Notwithstanding subsection (b)(1)(A), a member who first becomes an employee of a  
8 participating public employer on or after July 1, 2015, as an elected official, shall be considered to  
9 have met the requirement of subsection (b)(1)(A) after remaining employed for the first twelve  
10 consecutive months of his or her term and first becoming an employee, regardless of whether a salary  
11 is paid to the employee for each such month. An elected official who does not elect to begin  
12 participating in the retirement system upon first becoming an employee of a participating public  
13 employer as an elected official shall not be eligible to purchase military service credit pursuant to  
14 subsection (b)(1).

15       (4) A member who first becomes an employee of a participating public employer on or after  
16 July 1, 2015, may purchase military service credit for active military duty performed on or after the  
17 date he or she first becomes an employee of a participating public employer only if all of the  
18 following conditions are met: *Provided*, That the maximum military service credit such member  
19 may purchase shall take into account any military service credit purchased for active military duty  
20 pursuant to subsection (b)(1) in addition to any military service credit purchased pursuant to this  
21 subsection (b)(4):

1           (A) The member was an employee of a participating public employer, terminated  
2 employment and experienced a break in contributing service in the retirement system of one or more  
3 months, performed active military service while not an employee of the participating public  
4 employer and not contributing to the retirement system, then again becomes an employee of a  
5 participating public employer and completes at least twelve consecutive months of contributory  
6 service;

7           (B) The member does not qualify for military service credit for such active military duty  
8 pursuant to subsection (d) of this section; and

9           (C) The member pays to the retirement system the actuarial reserve lump sum purchase  
10 amount within thirty-six months after the date on which employer and employee contributions are  
11 first received by the retirement system for the member after he or she again becomes an employee  
12 of a participating public employer immediately following the period of active military duty and break  
13 in service and completes at least twelve consecutive months of contributory service, and while he  
14 or she continues to be in the employ of a participating public employer and contributing to the  
15 retirement system.

16           (5) Notwithstanding subsection (b)(4)(A), a member who otherwise meets the requirements  
17 of subsection (b)(4)(A), but who does not remain employed and contributing to the retirement system  
18 for at least twelve consecutive months when he or she first becomes an employee of a participating  
19 public employer after the period of active military duty and break in service, shall be considered to  
20 have met the requirement of subsection (b)(4)(A) the first time he or she again becomes an employee  
21 of a participating public employer and completes at least twelve consecutive months of contributing



1 service. Such a member shall be considered to have met the requirement of subsection (b)(4)(C) if  
2 he or she pays to the retirement system the actuarial reserve lump sum purchase amount within  
3 thirty-six months after the date on which employer and employee contributions are first received by  
4 the retirement system for the member for the first time he or she again becomes an employee of a  
5 participating public employer and completes at least twelve consecutive months of contributing  
6 service, and while he or she continues to be in the employ of a participating public employer and  
7 contributing to the retirement system.

8 (6) Notwithstanding subsection (b)(4)(A), a member who becomes an employee of a  
9 participating public employer after such a period of active military duty and break in service as an  
10 elected official shall be considered to have met the requirement of subsection (b)(4)(A) after  
11 remaining employed for the first twelve consecutive months of his or her term after again becoming  
12 an employee, regardless of whether a salary is paid to the employee for each such month. Such an  
13 individual must elect to begin participating in the retirement system immediately upon again  
14 becoming an employee of a participating public employer after the period of active military duty and  
15 break in service.

16 (7) For purposes of this subsection (b), the following definitions shall apply:

17 (A) "Active military duty" means full-time active duty in the Armed Forces of the United  
18 States for a period of thirty or more consecutive calendar days. Active military duty does not include  
19 inactive duty of any kind.

20 (B) "Actuarial reserve lump sum purchase amount" means the purchase annuity rate  
21 multiplied by the purchase accrued benefit, calculated as of the calculation month, plus annual

1 interest accruing at seven and one-half percent from the calculation month through the purchase  
2 month, compounded monthly.

3 (C) "Armed Forces of the United States" means the Army, Navy, Air Force, Marine Corps,  
4 and Coast Guard, the Reserve components thereof, and the National Guard of the United States or  
5 the National Guard of a State or Territory when members of the same are on full-time active duty  
6 pursuant to Title 10 or Title 32 of the United States Code.

7 (D) "Calculation month" means the month immediately following the month in which the  
8 member completes the twelve consecutive months of contributory service with a participating public  
9 employer required by subsection (b)(1)(A), (b)(2), (b)(3), (b)(4)(A), (b)(5) or (b)(6) of this section,  
10 as applicable.

11 (E) "Purchase accrued benefit" means two percent times the purchase military service times  
12 the purchase average monthly salary.

13 (F) "Purchase age" means the age of the employee in years and completed months as of the  
14 first day of the calculation month.

15 (G) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of the  
16 calculation month based on the following actuarial assumptions: Interest rate of seven and one-half  
17 percent; mortality of the 1971 group annuity mortality table, fifty percent blended male and female  
18 rates, applied on a unisex basis to all members; if purchase age is under age sixty, a deferred annuity  
19 factor with payments commencing at age sixty; and if purchase age is sixty or over, an immediate  
20 annuity factor with payments starting at the purchase age.

21 (H) "Purchase average monthly salary" means the average monthly salary of the member

1 during the months two through twelve of the twelve consecutive month period required by  
2 subsection (b)(1)(A), (b)(2), (b)(3), (b)(4)(A), (b)(5) or (b)(6) of this section, as applicable.

3 (I) "Purchase military service" means the amount of military service being purchased by the  
4 employee in months up to the sixty month maximum, calculated in accordance with subsection  
5 (b)(9) of this section.

6 (J) "Purchase month" means the month in which the employee deposits the actuarial reserve  
7 lump sum purchase amount into the plan trust fund in full payment of the service credit being  
8 purchased.

9 (8) A member may purchase military service credit for a period of active military duty  
10 pursuant to this subsection only if the member received an honorable discharge for the period.  
11 Anything other than an honorable discharge, including, but not limited to, a general or under  
12 honorable conditions discharge, an entry-level separation discharge, an other than honorable  
13 conditions discharge, or a dishonorable discharge, shall disqualify the member from receiving  
14 military service credit for the period of service. The board shall require a member requesting  
15 military service credit to provide official documentation establishing that the requirements set forth  
16 in this subsection have been met.

17 (9) To calculate the amount of military service credit a member may purchase, the board shall  
18 add the total number of days in each period of a member's active military duty eligible to be  
19 purchased, divide the total by thirty, and round up or down to the nearest integer (fractions of 0.5  
20 shall be rounded up), in order to yield the total number of months of military service credit a member  
21 may purchase, subject to the sixty month maximum. A member may purchase all or part of the

1 maximum amount of military service credit he or she is eligible for, in one-month increments.

2 (10) To receive credit, a member must submit a request to purchase military service credit  
3 to the board, on such form or in such other manner as shall be required by the board, within the  
4 twelve consecutive month period required by subsection (b)(1)(A), (b)(2), (b)(3), (b)(4)(A), (b)(5)  
5 or (b)(6) of this section, as applicable. The board shall then calculate the actuarial reserve lump sum  
6 purchase amount, which amount must be paid by the member within the thirty-six month period  
7 required by subsection (b)(1)(C), (b)(2), (b)(4)(C), or (b)(5) of this section, as applicable. A member  
8 purchasing military service credit pursuant to this subsection must do so in a single, lump sum  
9 payment; the board shall not accept partial, installment or other similar payments.

10 (11) The board shall require a member requesting military service credit to provide official  
11 documentation establishing that the requirements set forth in this subsection have been met.

12 (12) Military service credit purchased pursuant to this subsection shall not be considered  
13 contributing service credit or contributory service for purposes of this article.

14 (13) If a member who has purchased military service credit pursuant to this subsection is  
15 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of this  
16 article, he or she shall also receive a refund of the actuarial reserve lump sum purchase amount he  
17 or she paid to the retirement system to purchase military service credit, together with regular interest  
18 on such amount.

19 (c) No period of military service shall be used to obtain credit in more than one retirement  
20 system administered by the board and once used in any system, a period of military service may not  
21 be used again in any other system.

1 (d) Notwithstanding the preceding provisions of this section, contributions, benefits and  
2 service credit with respect to qualified military service shall be provided in accordance with Section  
3 414(u) of the Internal Revenue Code and the federal Uniformed Services Employment and  
4 Reemployment Rights Act (USERRA), and regulations promulgated thereunder, as the same may  
5 be amended from time to time. For purposes of this section, "qualified military service" has the same  
6 meaning as in Section 414(u) of the Internal Revenue Code.

7 (e) In any case of doubt as to the period of service to be credited a member under the  
8 provisions of this section, the board has final power to determine the period. Notwithstanding the  
9 provisions of section three-a, article ten of this chapter, the provisions of this section shall not be  
10 subject to liberal construction. The board is authorized to determine all questions and make all  
11 decisions relating to this section and, pursuant to the authority granted to the board in section one,  
12 article ten-d of this chapter, may propose rules to administer this section for legislative approval in  
13 accordance with the provisions of article three, chapter twenty-nine-a of this code.

14 **§18-7A-23. Withdrawal and death benefits.**

15 (a) Benefits upon withdrawal from service prior to retirement under the provisions of this  
16 article shall be as follows:

17 (1) A contributor who withdraws from service for any cause other than death, disability or  
18 retirement shall, upon application, be paid his or her accumulated contributions up to the end of the  
19 fiscal year preceding the year in which application is made, after offset of any outstanding loan  
20 balance, plus accrued interest, pursuant to section thirty-four of this article, but in no event shall  
21 interest be paid beyond the end of five years following the year in which the last contribution was

1 made: *Provided*, That the contributor, at the time of application, is then no longer under contract,  
2 verbal or otherwise, to serve as a teacher; or

3 (2) Except as provided in section twenty-five-b of this article, if the contributor has  
4 completed twenty years of total service, he or she may elect to receive at retirement age an annuity  
5 which shall be computed as provided in this article: *Provided*, That if the contributor has completed  
6 at least five, but fewer than twenty, years of total service in this state, he or she may elect to receive  
7 at age sixty-two an annuity which shall be computed as provided in this article. The contributor must  
8 notify the retirement board in writing concerning the election. If the contributor has completed fewer  
9 than five years of service in this state, he or she shall be subject to the provisions as outlined in  
10 subdivision (1) of this subsection.

11 (b) Benefits upon the death of a contributor prior to retirement under the provisions of this  
12 article shall be paid as follows:

13 (1) If the contributor was at least fifty years old and if his or her total service as a teacher was  
14 at least twenty-five years at the time of his or her death, then the surviving spouse of the deceased,  
15 provided the spouse is designated as the sole refund beneficiary, is eligible for an annuity computed  
16 as though the deceased were actually a retired teacher at the time of death and had selected a  
17 survivorship option which pays the spouse the same monthly amount which would have been  
18 received by the deceased; or

19 (2) If the facts do not permit payment under subdivision (1) of this subsection, then the  
20 following sum shall be paid to the refund beneficiary of the contributor: The contributor's  
21 accumulated contributions up to the year of his or her death plus an amount equal to his or her

1 employee contributions. The latter sum shall emanate from the Employer's Accumulation Fund.

2 **§18-7A-25. Eligibility for retirement allowance.**

3 (a) Except for a person who first becomes a member of the retirement system on or after July  
4 1, 2010, any actively contributing member who has attained the age of sixty years or any member  
5 who has thirty-five years of total service as a teacher or nonteaching member in West Virginia,  
6 regardless of age, is eligible for an annuity. No new entrant nor present member is eligible for an  
7 annuity, however, if either has less than five years of service to his or her credit: *Provided*, That on  
8 and after July 1, ~~2013~~ 2010, any person who becomes a new member of this retirement system shall,  
9 in qualifying for retirement under this section, have five or more years of contributory service, all  
10 of which shall be actual, contributory ones.

11 (b) Except for a person who first becomes a member of the retirement system on or after July  
12 1, 2010, any member who has attained the age of fifty-five years and who has served thirty years as  
13 a teacher or nonteaching member in West Virginia is eligible for an annuity.

14 (c) Except for a person who first becomes a member of the retirement system on or after July  
15 1, 2010, any member who has served at least thirty but less than thirty-five years as a teacher or  
16 nonteaching member in West Virginia and is less than fifty-five years of age is eligible for an  
17 annuity, but the annuity shall be the reduced actuarial equivalent of the annuity the member would  
18 have received if the member were age fifty-five at the time the annuity was applied for.

19 (d) The request for any annuity shall be made by the member in writing to the retirement  
20 board, but in case of retirement for disability, the written request may be made by either the member  
21 or the employer.

1 (e) A member is eligible for annuity for disability if he or she satisfies the conditions in either  
2 subdivision (1) or (2) of this subsection and meets the conditions of subdivision (3) of this  
3 subsection as follows:

4 (1) His or her service as a teacher or nonteaching member in West Virginia must total at least  
5 ten years and service as a teacher or nonteaching member must have been terminated because of  
6 disability, which disability must have caused absence from service for at least six months before his  
7 or her application for disability annuity is approved.

8 (2) His or her service as a teacher or nonteaching member in West Virginia must total at least  
9 five years and service as a teacher or nonteaching member must have been terminated because of  
10 disability, which disability must have caused absence from service for at least six months before his  
11 or her application for disability annuity is approved and the disability is a direct and total result of  
12 an act of student violence directed toward the member.

13 (3) An examination by a physician or physicians selected by the retirement board must show  
14 that the member is at the time mentally or physically incapacitated for service as a teacher or  
15 nonteaching member, that for that service the disability is total and likely to be permanent and that  
16 he or she should be retired in consequence of the disability.

17 (f) Continuance of the disability of the retirant shall be established by medical examination,  
18 as prescribed in subdivision (3), subsection (e) of this section, annually for five years after  
19 retirement, and thereafter at such times required by the retirement board. Effective July 1, 1998, a  
20 member who has retired because of a disability may select an option of payment under the provisions  
21 of section twenty-eight of this article: *Provided*, That any option selected under the provisions of



1 section twenty-eight of this article shall be in all respects the actuarial equivalent of the straight life  
2 annuity benefit the disability retirant receives or would receive if the options under said section were  
3 not available and that no beneficiary or beneficiaries of the disability retirant may receive a greater  
4 benefit, nor receive any benefit for a greater length of time, than the beneficiary or beneficiaries  
5 would have received had the disability retirant not made any election of the options available under  
6 said section. In determining the actuarial equivalence, the retirement board shall take into account  
7 the life expectancies of the member and the beneficiary: *Provided, however,* That the life  
8 expectancies may at the discretion of the retirement board be established by an underwriting medical  
9 director of a competent insurance company offering annuities. Payment of the disability annuity  
10 provided in this article shall cease immediately if the retirement board finds that the disability of the  
11 retirant no longer exists, or if the retirant refuses to submit to medical examination as required by  
12 this section.

13 **§18-7A-25b. Withdrawal and eligibility for retirement allowance for a person who first**  
14 **becomes a member of the retirement system on or after July 1, 2010.**

15 (a) A person who first becomes a member of the retirement system on or after July 1, 2010,  
16 who has ten or more years of contributing service, and attains or has attained the age of sixty-two  
17 years, may retire upon his or her written application filed with the board of trustees setting forth at  
18 what time, not less than thirty days nor more than ninety days subsequent to the execution and filing  
19 thereof the member desires to be retired. Upon retirement, the member shall receive an annuity  
20 provided in section twenty-six of the article.

21 (b) Any person who first becomes a member of the retirement system on or after July 1, 2010,

1 who has ten or more years of contributing service and who leaves the employ of a participating  
2 public employer prior to attaining age sixty-four years for any reason except his or her disability or  
3 death, is entitled to an annuity computed according to section twenty-two of this article, as that  
4 section was in force as of the date of his or her separation from the employ of a participating public  
5 employer: *Provided*, That he or she does not withdraw his or her accumulated contributions from  
6 the members' deposit fund. His or her annuity shall begin the first day of the calendar month next  
7 following the month in which his or her application for same is filed with the board of trustees on  
8 or after his or her attaining age sixty-four years.

9 (c) Any member who qualifies for deferred retirement benefits in accordance with  
10 subsections(a)and (b) of this subsection and has twenty or more years of contributing service in  
11 force is entitled to an annuity computed as in subsection (a) of this section: *Provided*, That he or she  
12 does not withdraw his or her accumulated contributions from the members' deposit fund: *Provided*,  
13 *however*, That his or her annuity shall begin the first day of the calendar month next following the  
14 month in which his or her application for same is filed with the board of trustees on or after his or  
15 attaining age sixty-three.

16 (d) Notwithstanding any of the other provisions of this section or of this article, except  
17 sections twenty-eight-a and twenty-eight-b of this article, and pursuant to rules promulgated by the  
18 board, any member who first becomes a member of the retirement system on or after July 1, 2010,  
19 and has ten or more years of contributing service in force, and who elects to take early retirement,  
20 which for the purposes of this subsection means retirement following attainment of age sixty but  
21 prior to age attaining age sixty-two, is entitled to the full computation of annuity according to section

1 twenty-two of this article, as that section was in force as of the date of retirement application, but  
2 with the reduced actuarial equivalent of the annuity the member would have received if his or her  
3 benefit had commenced at age sixty-two when he or she would have been entitled to full  
4 computation of benefit without any reduction: *Provided*, That his or her annuity shall begin the first  
5 day of the calendar month next following the month in which his or her application for same is filed  
6 with the board of trustees on or after his or attaining age sixty.

7 (e) Any member who first becomes a member of the retirement system on or after July 1,  
8 2010, and has twenty or more years of contributing service in force, and who elects to take early  
9 retirement, which for the purposes of this subsection means retirement following attainment of age  
10 fifty-seven but prior to attaining age sixty-two, is entitled to the full computation of annuity  
11 according to section twenty-two of this article, as that section was in force as of the date of  
12 retirement application, but with the reduced actuarial equivalent of the annuity the member would  
13 have received if his or her benefit had commenced at age sixty-two when he or she would have been  
14 entitled to full computation of benefit without any reduction: *Provided*, That his or her annuity shall  
15 begin the first day of the calendar month next following the month in which his or her application  
16 for same is filed with the board of trustees on or after his or attaining age fifty-seven.

17 (f) Any member who first becomes a member of the retirement system on or after July 1,  
18 2010, and has thirty or more years of contributing service in force, and who elects to take early  
19 retirement, which for the purposes of this subsection means retirement following attainment of age  
20 fifty-five but prior to attaining age sixty-two, is entitled to the full computation of annuity according  
21 to section twenty-two of this article, as that section was in force as of the date of retirement

1 application, but with the reduced actuarial equivalent of the annuity the member would have received  
2 if his or her benefit had commenced at age sixty-two when he or she would have been entitled to full  
3 computation of benefit without any reduction: *Provided*, That his or her annuity shall begin the first  
4 day of the calendar month next following the month in which his or her application for same is filed  
5 with the board of trustees on or after his or attaining age fifty-five.

NOTE: The purpose of this bill is to modify calculation of final average salary, employee contribution rate and number of months to equal a year of service credit and military service credit for members of the Public Employees Retirement System who first were employed by a participating employer on or after July 1, 2010 (newer members); to modify the rate of annual and sick leave conversion for additional service credit for newer members of the Public Employees Retirement System, State Police Retirement System and Teachers Retirement system, and to modify retirement age for newer members of the Public Employees Retirement System and the Teachers Retirement System.

The bill clarifies eligibility for noncontributory and contributory military service credit and National Guard service eligibility for military service credit, and eliminates applicability of the liberality clause to the retirement board's decision to grant or deny military service credit applications.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§5-10-21a, §18-7A-17a and §18-7A-25b are new; therefore, strike-throughs and underscoring have been omitted.