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WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

REGULAR SESSION, 2015



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 342

(SENATORS GAUNCH, TRUMP AND PLYMALE, ORIGINAL SPONSORS)

[PASSED MARCH 12, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 342

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COMMITTEE SUBSTITUTE
FOR

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Senate Bill No. 342

(SENATORS GAUNCH, TRUMP AND PLYMALE, *ORIGINAL SPONSORS*)

[Passed March 12, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §5-10-44 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-7a of said code; to amend and reenact §8-22A-8 of said code; to amend said code by adding thereto a new section, designated §8-22A-8a; to amend said code by adding thereto a new section, designated §15-2-54; to amend said code by adding thereto a new section, designated §15-2A-23; to amend and reenact §16-5V-8a of said code; to amend and reenact §18-7A-14c of said code; to amend and reenact §18-7B-21 of said code; and to amend said code by adding thereto a new section, designated §51-9-18, all relating to correction of errors under the West Virginia Public Employees Retirement System, West Virginia Deputy Sheriff Retirement System, West Virginia Municipal Police Officers and Firefighters Retirement System, West Virginia Emergency Medical Services Retirement System, the State Teachers Retirement System, Teachers' Defined Contribution Retirement System, West Virginia State Police Death, Disability and Retirement System, West Virginia State Police Retirement System and the Judges' Retirement System; and clarifying scope, application and requirements for error correction by Consolidated Public Retirement Board.

Be it enacted by the Legislature of West Virginia:

That §5-10-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §7-14D-7a of said code be amended and reenacted; that §8-22A-8 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §8-22A-8a; that said code be amended by adding thereto a new section, designated §15-2-54; that said code be amended by adding thereto a new section, designated §15-2A-23; that §16-5V-8a of said code be amended and reenacted; that §18-7A-14c of said code be amended and reenacted; that §18-7B-21 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §51-9-18, all to read as follows:

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

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES
RETIREMENT ACT.**

§5-10-44. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of any errors, the board
2 shall correct errors in the retirement system in a timely
3 manner whether an individual, entity or board was at fault for
4 the error with the intent of placing the affected individual,
5 entity and retirement board in the position each would have
6 been in had the error not occurred.

7 (b) Underpayments to the retirement system: Any error
8 resulting in an underpayment to the retirement system may be
9 corrected by the member or retirant remitting the required
10 employee contribution or underpayment and the participating
11 public employer remitting the required employer contribution

12 or underpayment. Interest shall accumulate in accordance
13 with the legislative rule 162 CSR 7 concerning retirement
14 board refund, reinstatement, retroactive service, loan and
15 correction of error interest factors and any accumulating
16 interest owed on the employee and employer contributions or
17 underpayments resulting from an employer error shall be the
18 responsibility of the participating public employer. The
19 participating public employer may remit total payment and
20 the employee reimburse the participating public employer
21 through payroll deduction over a period equivalent to the
22 time period during which the employer error occurred. If the
23 correction of an error involving an underpayment to the
24 retirement system will result in the retirement system paying
25 a retiree an additional amount, this additional payment shall
26 be made only after the board receives full payment of all
27 required employee and employer contributions or
28 underpayments, including interest.

29 (c) Overpayments to the retirement system by an
30 employer: When mistaken or excess employer contributions
31 or other employer overpayments have been made to the
32 retirement system, the board shall credit the employer with an
33 amount equal to the overpayment, to be offset against the
34 employer's future liability for employer contributions to the
35 system. If the employer has no future liability for employer
36 contributions to the retirement system, the board shall refund
37 the erroneous contributions directly to the employer.
38 Earnings or interest shall not be returned, offset or credited to
39 the employer under any of the means used by the board for
40 returning employer overpayments to the retirement system.

41 (d) Overpayments to the retirement system by an
42 employee: When mistaken or excess employee contributions
43 or overpayments have been made to the retirement system,
44 the board shall have sole authority for determining the means
45 of return, offset or credit to or for the benefit of the individual
46 making the mistaken or excess employee contribution of the

47 amounts, and may use any means authorized or permitted
48 under the provisions of section 401(a), *et seq.* of the Internal
49 Revenue Code and guidance issued thereunder applicable to
50 governmental plans. Alternatively, in its full and complete
51 discretion, the board may require the participating public
52 employer employing the individual to pay the individual the
53 amounts as wages, with the board crediting the participating
54 public employer with a corresponding amount to offset
55 against its future contributions to the plan. If the employer
56 has no future liability for employer contributions to the
57 retirement system, the board shall refund said amount directly
58 to the employer: *Provided*, That the wages paid to the
59 individual shall not be considered compensation for any
60 purposes of this article. Earnings or interest shall not be
61 returned, offset or credited under any of the means used by
62 the board for returning employee overpayments.

63 (e) Overpayments from the retirement system: If any
64 error results in any member, retirant, beneficiary, entity or
65 other individual receiving from the system more than he
66 would have been entitled to receive had the error not
67 occurred, the board shall correct the error in a timely manner.
68 If correction of the error occurs after annuity payments to a
69 retirant or beneficiary have commenced, the board shall
70 prospectively adjust the payment of the benefit to the correct
71 amount. In addition, the member, retirant, beneficiary, entity
72 or other person who received the overpayment from the
73 retirement system shall repay the amount of any overpayment
74 to the retirement system in any manner permitted by the
75 board. Interest shall not accumulate on any corrective
76 payment made to the retirement system pursuant to this
77 subsection.

78 (f) Underpayments from the retirement system: If any
79 error results in any member, retirant, beneficiary, entity or
80 other individual receiving from the retirement system less
81 than he would have been entitled to receive had the error not

82 occurred, the board shall correct the error in a timely manner.
83 If correction of the error occurs after annuity payments to a
84 retirant or beneficiary have commenced, the board shall
85 prospectively adjust the payment of the benefit to the correct
86 amount. In addition, the board shall pay the amount of such
87 underpayment to the member, retirant, beneficiary or other
88 individual in a lump sum. Interest shall not be paid on any
89 corrective payment made by the retirement system pursuant
90 to this subsection.

91 (g) Eligibility errors: If the board finds that an individual,
92 employer, or both individual and employer currently or
93 formerly participating in the retirement system is not eligible
94 to participate, the board shall notify the individual and his or
95 her employer of the determination and terminate participation
96 in the retirement system. Any erroneous payments to the
97 retirement system shall be returned to the employer and
98 individual in accordance with the methods described in
99 subsections (c) and (d) of this section and any erroneous
100 payments from the retirement system to such individual shall
101 be returned to the retirement system in accordance with the
102 methods described in subsection (e) of this section. Any
103 erroneous service credited to the individual shall be removed.
104 If the board determines that an individual or employer, or
105 both, has not been participating in the retirement system, but
106 was eligible to and required to be participating in the
107 retirement system, the board shall as soon as practicable
108 notify the individual and his or her employer of the
109 determination and the individual and his or her employer
110 shall prospectively commence participation in the retirement
111 system as soon as practicable. Service credit for service prior
112 to the date on which the individual prospectively commences
113 participation in the retirement system shall be granted only if
114 the board receives the required employer and employee
115 contributions for such service, in accordance with subsection
116 (b) of this section, including interest.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

§7-14D-7a. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of errors, the board shall
2 correct errors in the retirement plan in a timely manner
3 whether the individual, entity or board was at fault for the
4 error with the intent of placing the affected individual, entity
5 and board in the position each would have been in had the
6 error not occurred.

7 (b) Underpayments to the plan: Any error resulting in an
8 underpayment to the plan may be corrected by the member or
9 retirant remitting the required employee contribution or
10 underpayment and the participating public employer
11 remitting the required employer contribution or
12 underpayment. Interest shall accumulate in accordance with
13 the legislative rule 162 CSR 7 concerning retirement board
14 refund, reinstatement, retroactive service, loan and correction
15 of error interest factors and any accumulating interest owed
16 on the employee and employer contributions or
17 underpayments resulting from an employer error shall be the
18 responsibility of the participating public employer. The
19 participating public employer may remit total payment and
20 the employee reimburse the participating public employer
21 through payroll deduction over a period equivalent to the
22 time period during which the employer error occurred. If the
23 correction of an error involving an underpayment to the plan
24 will result in the plan paying a retirant an additional amount,
25 this additional payment shall be made only after the board
26 receives full payment of all required employee and employer
27 contributions or underpayments, including interest.

28 (c) Overpayments to the plan by an employer: When
29 mistaken or excess employer contributions or other employer

30 overpayments have been made to the plan, the board shall
31 credit the employer with an amount equal to the
32 overpayment, to be offset against the employer's future
33 liability for employer contributions to the plan. If the
34 employer has no future liability for employer contributions to
35 the retirement system, the board shall refund the erroneous
36 contributions directly to the employer. Earnings or interest
37 shall not be returned, offset or credited to the employer under
38 any of the means used by the board for returning employer
39 overpayments made to the plan.

40 (d) Overpayments to the plan by an employee: When
41 mistaken or excess employee contributions or overpayments
42 have been made to the retirement system, the board shall
43 have sole authority for determining the means of return,
44 offset or credit to or for the benefit of the individual making
45 the mistaken or excess employee contribution of the amounts,
46 and may use any means authorized or permitted under the
47 provisions of section 401(a), *et seq.* of the Internal Revenue
48 Code and guidance issued thereunder applicable to
49 governmental plans. Alternatively, in its full and complete
50 discretion, the board may require the participating public
51 employer employing the individual to pay the individual the
52 amounts as wages, with the board crediting the participating
53 public employer with a corresponding amount to offset
54 against its future contributions to the plan. If the employer
55 has no future liability for employer contributions to the plan,
56 the board shall refund said amount directly to the employer:
57 *Provided*, That the wages paid to the individual shall not be
58 considered compensation for any purposes of this article.
59 Earnings or interest shall not be returned, offset, or credited
60 under any of the means used by the board for returning
61 employee overpayments.

62 (e) Overpayments from the plan: If any error results in
63 any member, retirant, beneficiary, entity or other individual
64 receiving from the system more than he would have been

65 entitled to receive had the error not occurred the board shall
66 correct the error in a timely manner. If correction of the error
67 occurs after annuity payments to a retirant or beneficiary
68 have commenced, the board shall prospectively adjust the
69 payment of the benefit to the correct amount. In addition, the
70 member, retirant, beneficiary, entity or other person who
71 received the overpayment from the plan shall repay the
72 amount of any overpayment to the plan in any manner
73 permitted by the board. Interest shall not accumulate on any
74 corrective payment made to the plan pursuant to this
75 subsection.

76 (f) Underpayments from the plan: If any error results in
77 any member, retirant, beneficiary, entity or other individual
78 receiving from the plan less than he would have been entitled
79 to receive had the error not occurred, the board, upon
80 learning of the error, shall correct the error in a timely
81 manner. If correction of the error occurs after annuity
82 payments to a retirant or beneficiary have commenced, the
83 board shall prospectively adjust the payment of the benefit to
84 the correct amount. In addition, the board shall pay the
85 amount of such underpayment to the member, retirant,
86 beneficiary or other individual in a lump sum. Interest shall
87 not be paid on any corrective payment made by the plan
88 pursuant to this subsection.

89 (g) Eligibility errors: If the board finds that an individual,
90 employer, or both individual and employer formerly or
91 currently participating in the plan is not eligible to
92 participate, the board shall notify the individual and his or her
93 employer of the determination, and terminate participation in
94 the plan. Any erroneous payments to the retirement system
95 shall be returned to the employer and individual in
96 accordance with the methods described in subsections (c) and
97 (d) of this section and any erroneous payments from the plan
98 to such individual shall be returned to the plan in accordance
99 with the methods described in subsection (e) of this section.

100 Any erroneous service credited to the individual shall be
101 removed. If the board determines that an individual or
102 employer, or both, has not been participating in the plan, but
103 was eligible to and required to be participating in the plan,
104 the board shall as soon as practicable notify the individual
105 and his or her employer of the determination, and the
106 individual and his or her employer shall prospectively
107 commence participation in the plan as soon as practicable.
108 Service credit for service prior to the date on which the
109 individual prospectively commences participation in the plan
110 shall be granted only if the board receives the required
111 employer and employee contributions for such service, in
112 accordance with subsection (b) of this section, including
113 interest.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

§8-22A-8. Members' contributions; employer contributions.

1 (a)(1) There shall be deducted from the monthly salary of
2 each member and paid into the fund an amount equal to eight
3 and one-half percent, or ten and one-half percent, if
4 applicable, of his or her monthly salary. An additional
5 amount shall be paid to the fund by the municipality or
6 municipal subdivision in which the member is employed in
7 covered employment in an amount determined by the board:
8 *Provided*, That in no year may the total of the employer
9 contributions provided in this section, to be paid by the
10 municipality or municipal subdivision, exceed ten and
11 one-half percent of the total payroll for the members in the
12 employ of the municipality or municipal subdivision. Any
13 active member who has concurrent employment in an
14 additional job or jobs and the additional employment requires
15 the police officer or firefighter to be a member of another
16 retirement system which is administered by the Consolidated

17 Public Retirement Board pursuant to article ten-d, chapter
18 five of this code shall contribute to the fund the sum of eight
19 and one-half percent, or ten and one-half percent, if
20 applicable, of his or her monthly salary earned as a municipal
21 police officer or firefighter as well as the sum of eight and
22 one-half percent, or ten and one-half percent, if applicable, of
23 his or her monthly salary earned from any additional
24 employment which additional employment requires the police
25 officer or firefighter to be a member of another retirement
26 system which is administered by the Consolidated Public
27 Retirement Board pursuant to article ten-d, chapter five of
28 this code. An additional amount as determined by the board,
29 not to exceed ten and one-half percent of the monthly salary
30 of each member, shall be paid to the fund by the concurrent
31 employer by which the member is employed.

32 (2) The board may, on the recommendation of the board's
33 actuary, increase the employees' contribution rate from eight
34 and one-half percent to ten and one-half percent should the
35 plan not be seventy percent funded by July 1, 2014. The
36 board shall decrease the contribution rate to eight and
37 one-half percent on July 1 following the acceptance by the
38 board of an actuarial valuation determining that the plan is
39 seventy-five percent funded. If the plan funding level at a
40 later actuarial valuation date falls below seventy percent, the
41 employee rate of contribution shall be increased to ten and
42 one-half percent of salary until the seventy-five percent level
43 of funding is achieved. The board shall change the employee
44 contribution rate on July 1 following the board's acceptance
45 of the actuarial valuation. At no time may the rate of
46 employee contribution exceed the rate of employer
47 contribution.

48 (b) All required deposits shall be remitted to the board no
49 later than fifteen days following the end of the calendar
50 month for which the deposits are required. If the board on
51 the recommendation of the board actuary finds that the

52 benefits provided by this article can be actuarially funded
53 with a lesser contribution, then the board shall reduce the
54 required member and employer contributions proportionally.
55 Any municipality or municipal subdivision which fails to
56 make any payment due the Municipal Police Officers and
57 Firefighters Retirement Fund by the fifteenth day following
58 the end of each calendar month in which contributions are
59 due may be required to pay the actuarial rate of interest lost
60 on the total amount owed for each day the payment is
61 delinquent. Accrual of the loss of earnings owed by the
62 delinquent municipality or municipal subdivision commences
63 after the fifteenth day following the end of the calendar
64 month in which contributions are due and continues until
65 receipt of the delinquent amount. Interest compounds daily
66 and the minimum surcharge is \$50.

§8-22A-8a. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of errors, the board shall
2 correct errors in the plan in a timely manner whether the
3 individual, entity or board was at fault for the error with the
4 intent of placing the affected individual, entity and retirement
5 board in the position each would have been in had the error
6 not occurred.

7 (b) Underpayments to the plan: Any error resulting in an
8 underpayment to the plan may be corrected by the member or
9 retirant remitting the required employee contribution or
10 underpayment and the employer remitting the required
11 employer contribution or underpayment. Interest shall
12 accumulate in accordance with the legislative rule 162 CSR 7
13 concerning retirement board refund, reinstatement, retroactive
14 service, loan and correction of error interest factors, and any
15 accumulating interest owed on the employee and employer
16 contributions or underpayments resulting from an employer
17 error shall be the responsibility of the employer. The employer
18 may remit total payment and the employee reimburse the

19 employer through payroll deduction over a period equivalent to
20 the time period during which the employer error occurred. If
21 the correction of an error involving an underpayment to the plan
22 will result in the plan correcting an erroneous underpayment
23 from the plan, the correction of the underpayment from the plan
24 shall be made only after the board receives full payment of all
25 required employee and employer contributions or
26 underpayments, including interest.

27 (c) Overpayments to the plan by the employer: When
28 mistaken or excess employer contributions, including any
29 overpayments have been made to the retirement system by
30 the employer, the board shall credit the employer with an
31 amount equal to the overpayment, to be offset against the
32 employer's future liability for employer contributions to the
33 system. If the employer has no future liability for employer
34 contributions to the plan, the board shall refund the erroneous
35 contributions directly to the employer. Earnings or interest
36 shall not be returned, offset or credited to the employer under
37 any of the means used by the board for returning employer
38 overpayments to the plan.

39 (d) Overpayments to the plan by an employee: When
40 mistaken or excess employee contributions or overpayments
41 have been made to the plan, the board shall have sole
42 authority for determining the means of return, offset or credit
43 to or for the benefit of the individual making the mistaken or
44 excess employee contribution of the amounts, and may use
45 any means authorized or permitted under the provisions of
46 section 401(a), *et seq.* of the Internal Revenue Code and
47 guidance issued thereunder applicable to governmental plans.
48 Alternatively, in its full and complete discretion, the board
49 may require the employer employing the individual to pay the
50 individual the amounts as wages, with the board crediting the
51 employer with a corresponding amount to offset against its
52 future contributions to the plan. If the employer has no future
53 liability for employer contributions to the plan, the board

54 shall refund said amount directly to the employer: *Provided*,
55 That the wages paid to the individual shall not be considered
56 compensation for any purposes of this article. Earnings or
57 interest shall not be returned, offset, or credited under any of
58 the means used by the board for returning employee
59 overpayments.

60 (e) Overpayments from the plan: If any error results in
61 any member, retirant, beneficiary, entity or other individual
62 receiving from the plan more than he would have been
63 entitled to receive had the error not occurred the board after
64 learning of the error shall correct the error in a timely
65 manner. If correction of the error occurs after annuity
66 payments to a retirant or beneficiary have commenced, the
67 board shall prospectively adjust the payment of the benefit to
68 the correct amount. In addition, the member, retirant,
69 beneficiary, entity or other person who received the
70 overpayment from the plan shall repay the amount of any
71 overpayment to the retirement system in any manner
72 permitted by the board. Interest shall not accumulate on any
73 corrective payment made to the plan pursuant to this
74 subsection.

75 (f) Underpayments from the plan: If any error results in
76 any member, retirant, beneficiary, entity or other individual
77 receiving from the plan less than he would have been entitled
78 to receive had the error not occurred, the board, upon
79 learning of the error, shall correct the error in a timely
80 manner. If correction of the error occurs after annuity
81 payments to a retirant or beneficiary have commenced, the
82 board shall prospectively adjust the payment of the benefit to
83 the correct amount. In addition, the board shall pay the
84 amount of such underpayment to the member, retirant,
85 beneficiary or other individual in a lump sum. Interest shall
86 not be paid on any corrective payment made by the retirement
87 system pursuant to this subsection.

88 (g) Eligibility errors: If the board finds that an individual,
89 employer, or both individual and employer formerly or
90 currently participating in the plan is not eligible to participate,
91 the board shall notify the individual and his or her employer of
92 the determination, and terminate participation in the plan. Any
93 erroneous payments to the plan shall be returned to the
94 employer and individual in accordance with the methods
95 described in subsections (c) and (d) of this section, and any
96 erroneous payments from the plan to such individual shall be
97 returned to the plan in accordance with the methods described
98 in subsection (e) of this section. Any erroneous service credited
99 to the individual shall be removed. If the board determines that
100 an individual or employer, or both, has not been participating in
101 the retirement plan, but was eligible to and required to be
102 participating in the plan, the board shall as soon as practicable
103 notify the individual and his or her employer of the
104 determination, and the individual and his or her employer shall
105 prospectively commence participation in the plan as soon as
106 practicable. Service credit for service prior to the date on which
107 the individual prospectively commences participation in the
108 plan shall be granted only if the board receives the required
109 employer and employee contributions for such service, in
110 accordance with subsection (b) of this section, including
111 interest.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-54. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of any errors, the board
2 shall correct errors in the system in a timely manner whether
3 the individual, entity or board was at fault for the error with
4 the intent of placing the affected individual, entity and
5 retirement board in the position each would have been in had
6 the error not occurred.

7 **(b) Underpayments to the system: Any error resulting in**
8 **an underpayment to the system may be corrected by the**
9 **member or retirant remitting the required employee**
10 **contribution or underpayment and the employer remitting the**
11 **required employer contribution or underpayment. Interest**
12 **shall accumulate in accordance with the legislative rule 162**
13 **CSR 7 concerning retirement board refund, reinstatement,**
14 **retroactive service, loan and correction of error interest**
15 **factors and any accumulating interest owed on the employee**
16 **and employer contributions or underpayments resulting from**
17 **an employer error is the responsibility of the employer. The**
18 **employer may remit total payment and the employee**
19 **reimburse the employer through payroll deduction over a**
20 **period equivalent to the time period during which the**
21 **employer error occurred. If the correction of an error**
22 **involving an underpayment to the system will result in the**
23 **system correcting an erroneous underpayment from the**
24 **system, the correction of the underpayment from the system**
25 **shall be made only after the board receives full payment of all**
26 **required employee and employer contributions or**
27 **underpayments, including interest.**

28 **(c) Overpayments to the system by an employer: When**
29 **mistaken or excess employer contributions, including any**
30 **overpayments have been made to the system by the employer,**
31 **the board shall credit the employer with an amount equal to**
32 **the overpayment, to be offset against the employer's future**
33 **liability for employer contributions to the system. If the**
34 **employer has no future liability for employer contributions to**
35 **the retirement system, the board shall refund the erroneous**
36 **contributions directly to the employer. Earnings or interest**
37 **shall not be returned, offset or credited to the employer under**
38 **any of the means used by the board for returning employer**
39 **overpayments to the retirement system.**

40 **(d) Overpayments to the system by an employee: When**
41 **mistaken or excess employee contributions or overpayments**

42 have been made to the system, the board shall have sole
43 authority for determining the means of return, offset or credit
44 to or for the benefit of the individual making the mistaken or
45 excess employee contribution of the amounts, and may use
46 any means authorized or permitted under the provisions of
47 section 401(a), *et seq.* of the Internal Revenue Code and
48 guidance issued thereunder applicable to governmental plans.
49 Alternatively, in its full and complete discretion, the board
50 may require the employer employing the individual to pay the
51 individual the amounts as wages, with the board crediting the
52 employer with a corresponding amount to offset against its
53 future contributions to the plan. If the employer has no future
54 liability for employer contributions to the system, the board
55 shall refund said amount directly to the employer: *Provided,*
56 That the wages paid to the individual shall not be considered
57 compensation for any purposes of this article. Earnings or
58 interest shall not be returned, offset, or credited under any of
59 the means used by the board for returning employee
60 overpayments.

61 (e) Overpayments from the system: If any error results in
62 any member, retirant, beneficiary, entity or other individual
63 receiving from the system more than he would have been
64 entitled to receive had the error not occurred the board, upon
65 learning of the error, shall correct the error in a timely
66 manner. If correction of the error occurs after annuity
67 payments to a retirant or beneficiary have commenced, the
68 board shall prospectively adjust the payment of the benefit to
69 the correct amount. In addition, the member, retirant,
70 beneficiary, entity or other person who received the
71 overpayment from the system shall repay the amount of any
72 overpayment to the system in any manner permitted by the
73 board. Interest shall not accumulate on any corrective
74 payment made to the system pursuant to this subsection.

75 (f) Underpayments from the system: If any error results
76 in any member, retirant, beneficiary, entity or other

77 individual receiving from the retirement system less than he
78 would have been entitled to receive had the error not
79 occurred, the board, upon learning of the error, shall correct
80 the error in a timely manner. If correction of the error occurs
81 after annuity payments to a retirant or beneficiary have
82 commenced, the board shall prospectively adjust the payment
83 of the benefit to the correct amount. In addition, the board
84 shall pay the amount of such underpayment to the member,
85 retirant, beneficiary or other individual in a lump sum.
86 Interest shall not be paid on any corrective payment made by
87 the system pursuant to this subsection.

88 (g) Eligibility errors: If the board finds that an individual,
89 employer, or both individual and employer currently or
90 formerly participating in the retirement system is not eligible
91 to participate, the board shall notify the individual and his or
92 her employer of the determination, and terminate
93 participation in the system. Any erroneous payments to the
94 system shall be returned to the employer and individual in
95 accordance with the methods described in subsections (c) and
96 (d) of this section and any erroneous payments from the
97 system to such individual shall be returned to the system in
98 accordance with the methods described in subsection (e) of
99 this section. Any erroneous service credited to the individual
100 shall be removed. If the board determines that an individual
101 or employer, or both, has not been participating in the system,
102 but was eligible to and required to be participating in the
103 system, the board shall as soon as practicable notify the
104 individual and his or her employer of the determination, and
105 the individual and his or her employer shall prospectively
106 commence participation in the system as soon as practicable.
107 Service credit for service prior to the date on which the
108 individual prospectively commences participation in the
109 system shall be granted only if the board receives the
110 required employer and employee contributions for such
111 service, in accordance with subsection (b) in this section,
112 including interest.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-23. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of any errors, the board
2 shall correct errors in the retirement system in a timely
3 manner whether the individual, entity or board was at fault
4 for the error with the intent of placing the affected individual,
5 entity and retirement board in the position each would have
6 been in had the error not occurred.

7 (b) Underpayments to the system: Any error resulting in
8 an underpayment to the system, may be corrected by the
9 member or retirant remitting the required employee
10 contribution or underpayment and the employer remitting the
11 required employer contribution or underpayment. Interest
12 shall accumulate in accordance with the legislative rule 162
13 CSR 7 concerning retirement board refund, reinstatement,
14 retroactive service, loan and correction of error interest
15 factors and any accumulating interest owed on the employee
16 and employer contributions or underpayments resulting from
17 an employer error shall be the responsibility of the employer.
18 The employer may remit total payment and the employee
19 reimburse the employer through payroll deduction over a
20 period equivalent to the time period during which the
21 employer error occurred. If the correction of an error
22 involving an underpayment to the system will result in the
23 system correcting an erroneous underpayment from the
24 system, the correction of the underpayment from the system
25 shall be made only after the board receives full payment of all
26 required employee and employer contributions or
27 underpayments, including interest.

28 (c) Overpayments to the system by an employer: When
29 mistaken or excess employer contributions or other
30 overpayments have been made to the system by an employer,
31 the board shall credit the employer with an amount equal to

32 the overpayment, to be offset against the employer's future
33 liability for employer contributions to the system. If the
34 employer has no future liability for employer contributions to
35 the retirement system, the board shall refund the erroneous
36 contributions directly to the employer. Earnings or interest
37 shall not be returned, offset or credited to the employer under
38 any of the means used by the board for returning employer
39 overpayments to the retirement system.

40 (d) Overpayments to the system by an employee: When
41 mistaken or excess employee contributions or overpayments
42 have been made to the system, the board shall have sole
43 authority for determining the means of return, offset or credit
44 to or for the benefit of the individual making the mistaken or
45 excess employee contribution of the amounts, and may use
46 any means authorized or permitted under the provisions of
47 section 401(a), *et seq.* of the Internal Revenue Code and
48 guidance issued thereunder applicable to governmental plans.
49 Alternatively, in its full and complete discretion, the board
50 may require the employer employing the individual to pay the
51 individual the amounts as wages, with the board crediting the
52 employer with a corresponding amount to offset against its
53 future contributions to the plan. If the employer has no future
54 liability for employer contributions to the retirement system,
55 the board shall refund said amount directly to the employer:
56 *Provided*, That the wages paid to the individual shall not be
57 considered compensation for any purposes of this article.
58 Earnings or interest shall not be returned, offset, or credited
59 under any of the means used by the board for returning
60 employee overpayments.

61 (e) Overpayments from the system: If any error results in
62 any member, retirant, beneficiary, entity or other individual
63 receiving from the system more than he would have been
64 entitled to receive had the error not occurred the board, upon
65 learning of the error, shall correct the error in a timely
66 manner. If correction of the error occurs after annuity

67 payments to a retirant or beneficiary have commenced, the
68 board shall prospectively adjust the payment of the benefit to
69 the correct amount. In addition, the member, retirant,
70 beneficiary, entity or other person who received the
71 overpayment from the system shall repay the amount of any
72 overpayment to the system in any manner permitted by the
73 board. Interest shall not accumulate on any corrective
74 payment made to the system pursuant to this subsection.

75 (f) Underpayments from the system: If any error results
76 in any member, retirant, beneficiary, entity or other
77 individual receiving from the system less than he would have
78 been entitled to receive had the error not occurred, the board
79 shall correct the error in a timely manner. If correction of the
80 error occurs after annuity payments to a retirant or
81 beneficiary have commenced, the board shall prospectively
82 adjust the payment of the benefit to the correct amount. In
83 addition, the board shall pay the amount of such
84 underpayment to the member, retirant, beneficiary or other
85 individual in a lump sum. Interest shall not be paid on any
86 corrective payment made by the system pursuant to this
87 subsection.

88 (g) Eligibility errors: If the board finds that an individual,
89 employer, or both individual and employer currently or
90 formerly participating in the system is not eligible to
91 participate, the board shall notify the individual and his or her
92 employer of the determination, and terminate participation in
93 the system. Any erroneous payments to the system shall be
94 returned to the employer and individual in accordance with
95 the methods described in subsections (c) and (d) of this
96 section and any erroneous payments from the system to such
97 individual shall be returned to the system in accordance with
98 the methods described in subsection (e) of this section. Any
99 erroneous service credited to the individual shall be removed.
100 If the board determines that an individual or employer, or
101 both, has not been participating in the system, but was

102 eligible to and required to be participating in the system, the
103 board shall as soon as practicable notify the individual and
104 his or her employer of the determination, and the individual
105 and his or her employer shall prospectively commence
106 participation in the system as soon as practicable. Service
107 credit for service prior to the date on which the individual
108 prospectively commences participation in the system shall be
109 granted only if the board receives the required employer and
110 employee contributions for such service, in accordance with
111 subsection (b) in this section, including interest.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-8a. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of any errors, the board
2 shall correct errors in the retirement system in a timely
3 manner whether the individual, entity or board was at fault
4 for the error with the intent of placing the affected individual,
5 entity and retirement board in the position each would have
6 been in had the error not occurred.

7 (b) Underpayments to the plan: Any error resulting in an
8 underpayment to the retirement plan, may be corrected by the
9 member or retirant remitting the required employee
10 contribution or underpayment and the participating public
11 employer remitting the required employer contribution or
12 underpayment. Interest shall accumulate in accordance with
13 the legislative rule 162 CSR 7 concerning retirement board
14 refund, reinstatement, retroactive service, loan and correction
15 of error interest factors and any accumulating interest owed
16 on the employee and employer contributions or
17 underpayments resulting from an employer error shall be the
18 responsibility of the participating public employer. The
19 participating public employer may remit total payment and

20 the employee reimburse the participating public employer
21 through payroll deduction over a period equivalent to the
22 time period during which the employer error occurred. If the
23 correction of an error involving an underpayment to the
24 retirement system will result in the plan paying the retirant an
25 additional amount, this additional payment shall be made
26 only after the board receives full payment of all required
27 employee and employer contributions or underpayments,
28 including interest.

29 (c) Overpayments to the plan by an employer: When
30 mistaken or excess employer contributions or other employer
31 overpayments have been made to the plan, the board shall
32 credit the employer with an amount equal to the
33 overpayment, to be offset against the employer's future
34 liability for employer contributions to the plan. If the
35 employer has no future liability for employer contributions to
36 the plan, the board shall refund the erroneous contributions
37 directly to the employer. Earnings or interest shall not be
38 returned, offset or credited to the employer under any of the
39 means used by the board for returning employer
40 overpayments to the retirement system.

41 (d) Overpayments to the plan by an employee: When
42 mistaken or excess employee contributions or overpayments
43 have been made to the plan, the board shall have sole
44 authority for determining the means of return, offset or credit
45 to or for the benefit of the individual making the mistaken or
46 excess employee contribution of the amounts, and may use
47 any means authorized or permitted under the provisions of
48 section 401(a), *et seq.* of the Internal Revenue Code and
49 guidance issued thereunder applicable to governmental plans.
50 Alternatively, in its full and complete discretion, the board
51 may require the participating public employer employing the
52 individual to pay the individual the amounts as wages, with
53 the board crediting the participating public employer with a
54 corresponding amount to offset against its future

55 contributions to the plan. If the employer has no future
56 liability for employer contributions to the plan, the board
57 shall refund said amount directly to the employer: *Provided*,
58 That the wages paid to the individual shall not be considered
59 compensation for any purposes of this article. Earnings or
60 interest shall not be returned, offset, or credited under any of
61 the means used by the board for returning employee
62 overpayments.

63 (e) Overpayments from the plan: If any error results in
64 any member, retirant, beneficiary, entity or other individual
65 receiving from the system more than he would have been
66 entitled to receive had the error not occurred the board upon
67 learning of the error shall correct the error in a timely
68 manner. If correction of the error occurs after annuity
69 payments to a retirant or beneficiary have commenced, the
70 board shall prospectively adjust the payment of the benefit to
71 the correct amount. In addition, the member, retirant,
72 beneficiary, entity or other person who received the
73 overpayment from the plan shall repay the amount of any
74 overpayment to the plan in any manner permitted by the
75 board. Interest shall not accumulate on any corrective
76 payment made to the plan pursuant to this subsection.

77 (f) Underpayments from the retirement system: If any
78 error results in any member, retirant, beneficiary, entity or
79 other individual receiving from the plan less than he would
80 have been entitled to receive had the error not occurred, the
81 board, upon learning of the error, shall correct the error in a
82 timely manner. If correction of the error occurs after annuity
83 payments to a retirant or beneficiary have commenced, the
84 board shall prospectively adjust the payment of the benefit to
85 the correct amount. In addition, the board shall pay the
86 amount of such underpayment to the member, retirant,
87 beneficiary or other individual in a lump sum. Interest shall
88 not be paid on any corrective payment made by the plan
89 pursuant to this subsection.

90 (g) Eligibility errors: If the board finds that an individual,
91 employer, or both individual and employer, participating in
92 the plan is not eligible to participate, the board shall notify
93 the individual and his or her employer of the determination
94 and terminate participation in the plan. Any erroneous
95 payments to the plan shall be returned to the employer and
96 individual in accordance with the methods described in
97 subsections (c) and (d) of this section and any erroneous
98 payments from the plan to such individual shall be returned
99 to the plan in accordance with the methods described in
100 subsection (e) of this section. Any erroneous service credited
101 to the individual shall be removed. If the board determines
102 that an individual or employer, or both, has not been
103 participating in the plan, but was eligible to and required to
104 be participating in the plan, the board shall as soon as
105 practicable notify the individual and his or her employer of
106 the determination, and the individual and his or her employer
107 shall prospectively commence participation in the plan as
108 soon as practicable. Service credit for service prior to the
109 date on which the individual prospectively commences
110 participation in the plan shall be granted only if the board
111 receives the required employer and employee contributions
112 for such service, in accordance with subsection (b) of this
113 section, including interest.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-14c. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of any errors, the board
2 shall correct errors in the retirement system in a timely
3 manner whether the individual, entity or board was at fault
4 for the error with the intent of placing the affected individual,
5 entity and retirement board in the position each would have
6 been in had the error not occurred.

7 (b) Underpayments to the retirement system: Any error
8 resulting in an underpayment to the retirement system, may
9 be corrected by the member or retirant remitting the required
10 employee contribution or underpayment and the participating
11 public employer remitting the required employer contribution
12 or underpayment. Interest shall accumulate in accordance
13 with the legislative rule 162 CSR 7 concerning retirement
14 board refund, reinstatement, retroactive service, loan and
15 correction of error interest factors and any accumulating
16 interest owed on the employee and employer contributions or
17 underpayments resulting from an employer error shall be the
18 responsibility of the participating public employer. The
19 participating public employer may remit total payment and
20 the employee reimburse the participating public employer
21 through payroll deduction over a period equivalent to the
22 time period during which the employer error occurred. If the
23 correction of an error involving an underpayment to the
24 retirement system will result in the plan paying the retirant an
25 additional amount, this additional payment shall be made
26 only after the board receives full payment of all required
27 employee and employer contributions or underpayments,
28 including interest.

29 (c) Overpayments to the retirement system by an
30 employer: When mistaken or excess employer contributions
31 or other employer overpayments have been made to the
32 retirement system, the board shall credit the employer with an
33 amount equal to the erroneous overpayment, to be offset
34 against the employer's future liability for employer
35 contributions to the retirement system. If the employer has
36 no future liability for employer contributions to the retirement
37 system, the retirement board shall refund the erroneous
38 contributions directly to the employer. Earnings or interest
39 shall not be returned, offset or credited to the employer under
40 any of the means used by the retirement board for returning
41 employer overpayments to the retirement system.

42 (d) Overpayments to the retirement system by an
43 employee: When mistaken or excess employee contributions
44 or overpayments, have been made to the retirement system,
45 the board shall have sole authority for determining the means
46 of return, offset or credit to or for the benefit of the individual
47 making the mistaken or excess employee contribution of the
48 amounts and may use any means authorized or permitted
49 under the provisions of section 401(a), *et seq.* of the Internal
50 Revenue Code and guidance issued thereunder applicable to
51 governmental plans. Alternatively, in its full and complete
52 discretion, the board may require the employer employing the
53 individual to pay the individual the amounts as wages, with
54 the retirement board crediting the participating public
55 employer with a corresponding amount to offset against its
56 future contributions to the plan. If the employer has no future
57 liability for employer contributions to the retirement system,
58 the retirement board shall refund said amount directly to the
59 employer: *Provided*, That the wages paid to the individual
60 shall not be considered compensation for any purposes of this
61 article. Earnings or interest shall not be returned, offset, or
62 credited under any of the means used by the retirement board
63 for returning member overpayments.

64 (e) Overpayments from the retirement system: If any
65 error results in any member, retirant, beneficiary, entity or
66 other individual receiving from the system more than he
67 would have been entitled to receive had the error not
68 occurred the board , upon learning of the error, shall correct
69 the error in a timely manner. If correction of the error occurs
70 after annuity payments to a retirant or beneficiary have
71 commenced, the board shall prospectively adjust the payment
72 of the benefit to the correct amount. In addition, the member,
73 retirant, beneficiary, entity or other person who received the
74 overpayment from the retirement system shall repay the
75 amount of any overpayment to the retirement system in any
76 manner permitted by the board. Interest shall not accumulate
77 on any corrective payment made to the retirement system

78 pursuant to this subsection.

79 (f) Underpayments from the retirement system: If any
80 error results in any member, retirant, beneficiary, entity or
81 other individual receiving from the retirement system less
82 than he would have been entitled to receive had the error not
83 occurred, the board, upon learning of the error, shall correct
84 the error in a timely manner. If correction of the error occurs
85 after annuity payments to a retirant or beneficiary have
86 commenced, the board shall prospectively adjust the payment
87 of the benefit to the correct amount. In addition, the board
88 shall pay the amount of such underpayment to the member,
89 retirant, beneficiary or other individual in a lump sum.
90 Interest shall not be paid on any corrective payment made by
91 the retirement system pursuant to this subsection.

92 (g) Eligibility errors: If the board finds that an individual,
93 employer, or both individual and employer currently or
94 formerly participating in the retirement system is not eligible
95 to participate, the board shall notify the individual and his or
96 her employer of the determination, and terminate
97 participation in the retirement system. Any erroneous
98 payments to the retirement system shall be returned to the
99 employer and individual in accordance with the methods
100 described in subsections (c) and (d) of this section and any
101 erroneous payments from the retirement system to such
102 individual shall be returned to the retirement system in
103 accordance with the methods described in subsection (e) of
104 this section. Any erroneous service credited to the individual
105 shall be removed. If the board determines that an individual
106 or employer, or both, has not been participating in the
107 retirement system, but was eligible to and required to be
108 participating in the retirement system, the board shall as soon
109 as practicable notify the individual and his or her employer of
110 the determination, and the individual and his or her employer
111 shall prospectively commence participation in the retirement
112 system as soon as practicable. Service credit for service prior

113 to the date on which the individual prospectively commences
114 participation in the retirement system shall be granted only if
115 the board receives the required employer and employee
116 contributions for such service, in accordance with subsection
117 (b) of this section, including interest.

**ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION
RETIREMENT SYSTEM.**

§18-7B-21. Correction of errors; underpayments; overpayments

1 (a) General rule: Upon learning of any errors, the board
2 shall correct errors in the retirement system in a timely
3 manner whether the individual, entity or board was at fault
4 for the error with the intent of placing the affected individual,
5 entity and retirement board in the position each would have
6 been in had the error not occurred.

7 (b) Underpayments to the system: Any error resulting in an
8 underpayment to the system, may be corrected by the member
9 or retirant remitting the required employee contribution or
10 underpayment and the existing employer remitting the required
11 employer contribution or underpayment. Interest shall
12 accumulate in accordance with the legislative rule 162 CSR 7
13 concerning retirement board Refund, Reinstatement,
14 Retroactive Service, Loan and Correction of Error Interest
15 Factors and any accumulating interest owed on the employee
16 and employer contributions or underpayments resulting from an
17 employer error shall be the responsibility of the participating
18 public employer. The participating public employer may remit
19 total payment and the employee reimburse the participating
20 public employer through payroll deduction over a period
21 equivalent to the time period during which the employer error
22 occurred. If the correction of an error involving an
23 underpayment to the system will result in the system paying the
24 retirant an additional amount, this additional payment shall be
25 made only after the board receives full payment of all required

26 employee and employer contributions or underpayments,
27 including interest.

28 (c) Overpayments to the system by an employer: When
29 mistaken or excess employer contributions or other employer
30 overpayments have been made to the system, the board shall
31 credit the employer with an amount computed by the board,
32 to be offset against the employer's future liability for
33 employer contributions to the system. If the employer has no
34 future liability for employer contributions to the retirement
35 system, the board shall refund the erroneous contributions
36 directly to the employer.

37 (d) Overpayments to the retirement system by an
38 employee: When mistaken or excess employee contributions
39 or overpayments, have been made to the retirement system,
40 the board shall have sole authority for determining the means
41 of return, offset or credit to or for the benefit of the individual
42 making the mistaken or excess employee contribution of the
43 amounts, and may use any means authorized or permitted
44 under the provisions of section 401(a), *et seq.* of the Internal
45 Revenue Code and guidance issued thereunder applicable to
46 governmental plans. Alternatively, in its full and complete
47 discretion, the board may require the existing employer
48 employing the individual to pay the individual the amounts
49 as wages, with the board crediting the participating public
50 employer with a corresponding amount to offset against its
51 future contributions to the plan. If the employer has no future
52 liability for employer contributions to the retirement system,
53 the board shall refund said amount directly to the employer:
54 *Provided*, That the wages paid to the individual are not
55 considered compensation for any purposes of this article.

56 (e) Overpayments from the retirement system: If any
57 error results in any member, retirant beneficiary, entity or
58 other individual receiving from the system more than he
59 would have been entitled to receive had the error not

60 occurred the board upon learning of the error shall correct the
61 error in a timely manner. If correction of the error occurs
62 after annuity payments to a retirant or beneficiary have
63 commenced, the board shall prospectively adjust the payment
64 of the benefit to the correct amount. In addition, the member,
65 retirant, beneficiary, entity or other person who received the
66 overpayment from the retirement system shall repay the
67 amount of any overpayment to the retirement system in any
68 manner permitted by the board. Interest shall not accumulate
69 on any corrective payment made to the retirement system
70 pursuant to this subsection.

71 (f) Underpayments from the retirement system: If any
72 error results in any member, retirant, beneficiary, entity or
73 other individual receiving from the retirement system less
74 than he would have been entitled to receive had the error not
75 occurred, the board, upon learning of the error, shall correct
76 the error in a timely manner. If correction of the error occurs
77 after annuity payments to a retirant or beneficiary have
78 commenced, the board shall prospectively adjust the payment
79 of the benefit to the correct amount. In addition, the board
80 shall pay the amount of such underpayment to the member,
81 retirant, beneficiary or other individual in a lump sum.
82 Interest shall not be paid on any corrective payment made by
83 the retirement system pursuant to this subsection.

84 (g) Eligibility errors: If the board finds that an individual,
85 employer, or both individual and employer currently or
86 formerly participating in the retirement system is not eligible
87 to participate, the board shall notify the individual and his or
88 her employer of the determination, and terminate
89 participation in the retirement system. Any erroneous
90 payments to the retirement system shall be returned to the
91 employer and individual in accordance with the methods
92 described in subsections (c) and (d) of this section and any
93 erroneous payments from the retirement system to such
94 individual shall be returned to the retirement system in

95 accordance with the methods described in subsection (e) of
96 this section. Any erroneous service credited to the individual
97 shall be removed. Service credit for service prior to the date
98 on which the individual prospectively commences
99 participation in the retirement system shall be granted only if
100 the board receives the required employer and employee
101 contributions for such service, in accordance with subsection
102 (b) of this section, including interest.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-18. Correction of errors; underpayments; overpayments.

1 (a) General rule: Upon learning of any errors, the board
2 shall correct errors in the retirement system in a timely
3 manner whether the individual, entity or board was at fault
4 for the error with the intent of placing the affected individual,
5 entity and retirement board in the position each would have
6 been in had the error not occurred.

7 (b) Underpayments to the system: Any error resulting in
8 an underpayment to the system, may be corrected by the
9 member or retirant remitting the required employee
10 contribution or underpayment and the participating public
11 employer remitting the required employer contribution or
12 underpayment. Interest shall accumulate in accordance with
13 the legislative rule 162 CSR 7 concerning retirement board
14 refund, reinstatement, retroactive service, loan and correction
15 of error interest factors and any accumulating interest owed
16 on the employee and employer contributions or
17 underpayments resulting from an employer error shall be the
18 responsibility of the participating public employer. The
19 participating public employer may remit total payment and
20 the employee reimburse the participating public employer
21 through payroll deduction over a period equivalent to the

22 time period during which the employer error occurred. If the
23 correction of an error involving an underpayment to the
24 system will result in the system correcting an erroneous
25 underpayment from the system, the correction of the
26 underpayment from the system shall be made only after the
27 board receives full payment of all required employee and
28 employer contributions or underpayments, including interest.

29 (c) Overpayments to the retirement system by an
30 employer: When mistaken or excess employer contributions,
31 including any overpayments have been made to the
32 retirement system by a participating public employer, the
33 board, upon learning of the error, shall credit the participating
34 public employer with an amount equal to the overpayment, to
35 be offset against the employer's future liability for employer
36 contributions to the system. If the employer has no future
37 liability for employer contributions to the retirement system,
38 the board shall refund the erroneous contributions directly to
39 the employer. Earnings or interest shall not be returned,
40 offset or credited to the employer under any of the means
41 used by the board for returning employer overpayments to the
42 retirement system.

43 (d) Overpayments to the retirement system by an
44 employee: When mistaken or excess employee contributions
45 or overpayments have been made to the retirement system,
46 the board, upon learning of the error, shall have sole authority
47 for determining the means of return, offset or credit to or for
48 the benefit of the individual making the mistaken or excess
49 employee contribution of the amounts, and may use any
50 means authorized or permitted under the provisions of section
51 401(a), *et seq.* of the Internal Revenue Code and guidance
52 issued thereunder applicable to governmental plans.
53 Alternatively, in its full and complete discretion, the board
54 may require the participating public employer employing the
55 individual to pay the individual the amounts as wages, with
56 the board crediting the participating public employer with a

57 corresponding amount to offset against its future
58 contributions to the plan. If the employer has no future
59 liability for employer contributions to the retirement system,
60 the board shall refund said amount directly to the employer:
61 *Provided*, That the wages paid to the individual shall not be
62 considered compensation for any purposes of this article.
63 Earnings or interest shall not be returned, offset, or credited
64 under any of the means used by the board for returning
65 employee overpayments.

66 (e) Overpayments from the retirement system: If any
67 error results in any member, retirant, beneficiary, entity or
68 other individual receiving from the system more than he
69 would have been entitled to receive had the error not
70 occurred the board, upon learning of the error, shall correct
71 the error in a timely manner. If correction of the error occurs
72 after annuity payments to a retirant or beneficiary have
73 commenced, the board shall prospectively adjust the payment
74 of the benefit to the correct amount. In addition, the member,
75 retirant, beneficiary, entity or other person who received the
76 overpayment from the retirement system shall repay the
77 amount of any overpayment to the retirement system in any
78 manner permitted by the board. Interest shall not accumulate
79 on any corrective payment made to the retirement system
80 pursuant to this subsection.

81 (f) Underpayments from the retirement system: If any
82 error results in any member, retirant, beneficiary, entity or
83 other individual receiving from the retirement system less
84 than he would have been entitled to receive had the error not
85 occurred, the board, upon learning of the error, shall correct
86 the error in a timely manner. If correction of the error occurs
87 after annuity payments to a retirant or beneficiary have
88 commenced, the board shall prospectively adjust the payment
89 of the benefit to the correct amount. In addition, the board
90 shall pay the amount of such underpayment to the member,
91 retirant, beneficiary or other individual in a lump sum.

92 Interest shall not be paid on any corrective payment made by
93 the retirement system pursuant to this subsection.

94 (g) Eligibility errors: If the board finds that an individual,
95 employer, or both individual and employer, participating in
96 the system is not eligible to participate, the board shall notify
97 the individual and his or her employer of the determination,
98 and terminate participation in the system. Any erroneous
99 payments to the system shall be returned to the employer and
100 individual in accordance with the methods described in
101 subsections (c) and (d) of this section and any erroneous
102 payments from the system to such individual shall be returned
103 to the system in accordance with the methods described in
104 subsection (e) of this section. Any erroneous service credited
105 to the individual shall be removed. If the board determines
106 that an individual or employer, or both, has not been
107 participating in the system, but was eligible to and required
108 to be participating in the system, the board shall as soon as
109 practicable notify the individual and his or her employer of
110 the determination, and the individual and his or her employer
111 shall prospectively commence participation in the retirement
112 system as soon as practicable. Service credit for service prior
113 to the date on which the individual prospectively commences
114 participation in the system shall be granted only if the board
115 receives the required employer and employee contributions
116 for such service, in accordance with subsection (b) of this
117 section, including interest.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

The within *is approved* this the *25th*
Day of *March*, 2015.

[Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 18 2015

Time 10:30 AM