

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 595

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[Originating in the Committee on Pensions;
reported on February 18, 2016.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §5-10-15c; and to amend said code by adding thereto a new section,
3 designated §18-7A-17b, all relating to retirement credit for members of the West Virginia
4 National Guard; and establishing procedure for purchase of military service credit by
5 members of certain retirement systems with current or prior service in the West Virginia
6 National Guard.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §5-10-15c; and that said code be amended by adding thereto a new section,
3 designated §18-7A-17b, 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.

§5-10-15c. Military service credit for members of the West Virginia National Guard.

1 (a)(1) The Legislature recognizes the men and women who have dedicated themselves
2 to the defense and service of this state through their service in the West Virginia National Guard.
3 It is the intent of this section to confer military service credit upon members of the Public
4 Employees Retirement System for any time served in the West Virginia National Guard when they
5 meet the requirements of this section.

6 (2) In addition to any benefit provided by federal law, any member of the retirement system
7 who currently or previously has served in the West Virginia National Guard may purchase credited
8 service for the time served in the West Virginia National Guard, not to exceed sixty months if the
9 following conditions are met:

10 (A) The employee substantiates by appropriate documentation or evidence his or her
11 service in the West Virginia National Guard;

12 (B) The employee has completed at least twelve consecutive months of contributory
13 service to the retirement system on or after January 2015; and

14 (C) The employee pays to the retirement system the actuarial reserve purchase amount
15 within forty-eight months after January 1, 2015, if he or she was employed with a participating
16 public employer during all twelve months of the calendar year 2015 or the first date on which
17 employer and employee contributions are received by the retirement system for the employee
18 after January 2015 if he or she was not employed with a participating public employer during all
19 twelve months of calendar year 2015 and while he or she continues to be in the employ of a
20 participating public employer and contributing to the retirement system: *Provided*, That any
21 employee who ceases employment with a participating public employer before completing the
22 required actuarial reserve purchase amount in full shall not be eligible to purchase the military
23 service.

24 (3) Any member of the retirement system who serves, or has served, in the West Virginia
25 National Guard may purchase one month of military service credit for every fifteen points earned
26 toward a reserve component retirement during a qualifying year as computed in subdivision (7)
27 of this subsection. For purposes of this section, points will be verified using the National Guard
28 Current Annual Statement, Point Credit Summary or other equivalent document, along with any
29 documentation of any periods of active service of the State of West Virginia as verified by the
30 Adjutant General's office. All documentation will be submitted to the retirement board by the
31 employee.

32 (4) In no event, however, may a member purchase or receive a total of more than sixty
33 months of military service credit under this section; section fifteen, article ten, chapter five of this
34 code; or any other retirement system administered by the board.

35 (5) In any case of doubt as to the period of service to be credited a member under the
36 provisions of this section, the board shall have final power to determine the period.

37 (6) To receive credit, an employee must submit a request to purchase military service
38 credit to the board, on such form or in such other manner as shall be required by the board, within
39 the twelve consecutive month period required by this subsection or by December 31, 2016,
40 whichever occurs later. The board shall then calculate the actuarial reserve lump sum purchase
41 amount, which amount must be paid by the employee within the forty-eight-month period required
42 by this subsection, as applicable. An employee purchasing military service credit pursuant to this
43 subsection must do so in a single, lump sum payment: *Provided*, That the board may accept
44 partial, installment or other similar payments if the employee executes a contract with the board
45 specifying the amount of military service to be purchased and the payments required: *Provided*,
46 however, That any failure to pay the contract amount in accordance with this section shall be
47 treated as an overpayment or excess contribution subject to section forty-four of this article and
48 no military service shall be credited.

49 (7) To calculate the amount of military service credit an employee may purchase, the board
50 shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and
51 round up or down to the nearest integer (fractions of 0.5 and greater shall be rounded up), in order
52 to yield the total number of months of military service credit an employee may purchase, subject
53 to the sixty-month maximum. An employee may purchase in one-month increments all or part of
54 the maximum amount of military service credit for which he or she is eligible.

55 (8) If a member who has purchased military service credit pursuant to this subsection is
56 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of
57 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or
58 she paid to the retirement system to purchase military service credit, together with regular interest
59 on the amount.

60 (9) Military service credit purchased pursuant to this subsection may not be considered
61 contributing service credit or contributory service for purposes of this article.

62 (b)(1) Employees of participating public employers who continue concurrently in active
63 service of the State of West Virginia with the West Virginia National Guard after the eligible period
64 to purchase military service credit as set forth in subsection (a) or employees who join the West
65 Virginia National Guard after participation in the retirement system has commenced may
66 purchase military service credit earned after the service computed under subsection (a) up to the
67 sixty-month maximum in every even calendar year following, if the following conditions are met:

68 (A) The employee substantiates by appropriate documentation or evidence his or her
69 service in the West Virginia National Guard;

70 (B) The employee has completed at least twelve consecutive months of contributory
71 service to the retirement system in the prior odd year; and

72 (C) The employee pays to the retirement system the actuarial reserve purchase amount
73 within three months from the date of the cost letter provided by the board and while he or she
74 continues to be in the employ of a participating public employer and contributing to the retirement
75 system: *Provided*, That any employee who ceases employment with a participating public
76 employer before completing the required actuarial reserve purchase amount in full shall not be
77 eligible to purchase the military service credit.

78 (2) Any member of the retirement system who serves or has served in the West Virginia
79 National Guard may purchase one month of military service credit for every fifteen points earned
80 toward a reserve component retirement during a qualifying year as computed in subdivision (6)
81 of this subsection. For purposes of this section, points will be verified using the National Guard
82 Current Annual Statement, Point Credit or other equivalent document, along with any
83 documentation of any periods of active service of the State of West Virginia as verified by the
84 Adjutant General's office. All documentation will be submitted to the retirement board by the
85 employee.

86 (3) In no event, however, may a member purchase or receive a total of more than sixty
87 months of military service credit under this section; section fifteen, article ten, chapter five of this
88 code, or any other retirement system administered by the board.

89 (4) In any case of doubt as to the period of service to be credited a member under the
90 provisions of this section, the board shall have final power to determine the period.

91 (5) To receive credit, an employee must submit a request to purchase military service
92 credit to the board, on such form or in such other manner as shall be required by the board, within
93 the first five months of each even calendar year following the years computed under subsection
94 (a) of this section. The board shall then calculate the actuarial reserve lump sum purchase
95 amount, which amount must be paid by the employee within three months from the date of the
96 cost letter provided by the board. An employee purchasing military service credit pursuant to this
97 subsection must do so in a single, lump sum payment.

98 (6) To calculate the amount of military service credit an employee may purchase, the board
99 shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and
100 round up or down to the nearest integer (fractions of 0.5 and greater shall be rounded up), in order
101 to yield the total number of months of military service credit an employee may purchase, subject
102 to the sixty-month maximum. An employee may purchase in one month increments all or part of
103 the maximum amount of military service credit for which he or she is eligible.

104 (7) If a member who has purchased military service credit pursuant to this subsection is
105 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of
106 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or
107 she paid to the retirement system to purchase military service credit, together with regular interest
108 on the amount.

109 (8) Military service credit purchased pursuant to this subsection may not be considered
110 contributing service credit or contributory service for purposes of this article.

111 (c) For purposes of this section:

112 (1) "Active service of the State of West Virginia" means full-time state active duty in the
113 West Virginia Army National Guard or the West Virginia Air National Guard when such duty is
114 performed upon orders of the Adjutant General of the West Virginia National Guard or the
115 Governor of West Virginia and which is funded entirely by the state.

116 (2) "Actuarial reserve purchase amount" means the purchase annuity rate multiplied by
117 the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing
118 at seven and one-half percent from the calculation month through the purchase month,
119 compounded monthly: *Provided*, That if the employee elects to pay the full purchase amount on
120 an installment or partial payment basis as permitted under subsection (a) of this section, the
121 actuarial reserve purchase amount will include the lump sum payment plus additional interest
122 accruing at seven and one-half percent until the purchase amount is paid in full.

123 (3) "Calculation month" means the month immediately following the month in which the
124 employee completes the first twelve consecutive months of contributory service with a
125 participating public employer on or after January 2015 for computations under subsection (a) of
126 this section, or the month immediately following the month in which the employee completes
127 twelve consecutive months of contributory service with a participating public employer in the
128 preceding odd calendar year for computations under subsection (b) of this section.

129 (4) "Purchase accrued benefit" means two percent times the purchase military service
130 times the purchase average monthly salary.

131 (5) "Purchase age" means the age of the employee in years and completed months as of
132 the first day of the calculation month.

133 (6) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of
134 the calculation month based on the following actuarial assumptions:

135 (A) Interest rate of seven and one-half percent;

136 (B) Mortality of the 1971 group annuity mortality table, fifty percent blended male and
137 female rates, applied on a unisex basis to all members; and

138 (C) If purchase age is under age sixty-two, a deferred annuity factor with payments
139 commencing at age sixty-two; or

140 (D) If purchase age is sixty-two or over, an immediate annuity factor with payments starting
141 at the purchase age.

142 (7) "Purchase average monthly salary" means the average monthly salary of the employee
143 during months two through twelve of the twelve consecutive month period required by the
144 appropriate subsection.

145 (8) "Purchase military service" means the amount of military service being purchased by
146 the employee in months up to the sixty-month maximum, calculated in accordance with
147 subdivision (7) of subsection (a) and subdivision (6) of subsection (b) of this section.

148 (9) "Purchase month" means the month in which the employee deposits the actuarial
149 reserve lump sum purchase amount in full payment of the service credit being purchased or
150 makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full
151 payment of the service credit being purchased.

152 (10) "Qualifying year" means any year in which a member earns the minimum number of
153 points required to receive credit for the year toward retired pay pursuant to Section 12732 of Title
154 10, United States Code.

155 (11) "Service in the West Virginia National Guard" means full-time active duty for annual
156 training in the National Guard, Inactive Duty Training, Active Duty Operational Support, Active
157 Duty Special Work, funeral honors, State Active Duty as a member of the West Virginia National
158 Guard or any other similar periods of Title 32 service or active service of the State of West Virginia.

159 (12) "West Virginia National Guard" means the West Virginia Army National Guard and
160 the West Virginia Air National Guard.

161 (d) The board is authorized to determine all questions and make all decisions relating to
162 this section and, pursuant to the authority granted to the board in section one, article ten-d of this

163 chapter, may propose rules for legislative approval in accordance with the provisions of article
164 three, chapter twenty-nine-a of this code, to administer this section.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-17b. Military service credit for members of the West Virginia National Guard.

1 (a)(1) The Legislature recognizes the men and women who have dedicated themselves
2 to the defense and service of this state through their service in the West Virginia National Guard.
3 It is the intent of this section to confer military service credit upon members of the Teachers
4 Retirement System for any time served in the West Virginia National Guard when they meet the
5 requirements of this section.

6 (2) In addition to any benefit provided by federal law, any active member of the retirement
7 system who currently or previously has served in the West Virginia National Guard may purchase
8 credited service for the time served in the West Virginia National Guard, not to exceed sixty
9 months if the following conditions are met:

10 (A) The active member substantiates by appropriate documentation or evidence his or her
11 service in the West Virginia National Guard;

12 (B) The active member has completed a complete fiscal year of contributory service to the
13 retirement system on or after July 1, 2015; and

14 (C) The employee pays to the retirement system the actuarial reserve purchase amount
15 within forty-eight months after July 1, 2015, if he or she was employed with an employer during a
16 complete fiscal year in fiscal year 2016 or the first date on which employer and employee
17 contributions are received by the retirement system for the member for a complete fiscal year if
18 he or she was not employed with an employer for a complete fiscal year during fiscal year 2016
19 and while he or she continues to be in the employ of an employer and contributing to the
20 retirement system: *Provided*, That any member who ceases employment with an employer before

21 completing the required actuarial reserve purchase amount in full is not eligible to purchase the
22 military service.

23 (3) Any member of the retirement system who serves, or has served, in the West Virginia
24 National Guard may purchase one month of military service credit for every fifteen points earned
25 toward a reserve component retirement during a qualifying year as computed in subdivision (7)
26 of this subsection. For purposes of this section, points will be verified using the National Guard
27 Current Annual Statement, Point Credit Summary or other equivalent document, along with any
28 documentation of any periods of active service with the State of West Virginia as verified by the
29 Adjutant General's office. All documentation will be submitted to the retirement board by the active
30 member.

31 (4) In no event, however, may a member purchase or receive a total of more than sixty
32 months of military service credit under this section, section seventeen-a, article seven-a, chapter
33 eighteen; or any other retirement system administered by the retirement board.

34 (5) In any case of doubt as to the period of service to be credited a member under the
35 provisions of this section, the retirement board shall have the final power to determine the period.

36 (6) To receive credit, an active member must submit a request to purchase military service
37 credit to the retirement board, on such form or in such other manner as shall be required by the
38 retirement board, within the complete fiscal year required by this subsection or by October 31,
39 2016, whichever occurs later. The retirement board shall then calculate the actuarial reserve lump
40 sum purchase amount, which amount must be paid by the employee within the forty-eight-month
41 period required by this subsection, as applicable. An active member purchasing military service
42 credit pursuant to this subsection must do so in a single, lump sum payment: *Provided*, That the
43 retirement board may accept partial installments or other similar payments if the employee
44 executes a contract with the board specifying the amount of military service to be purchased and
45 the payments required: *Provided, however*, That any failure to pay the contract amount in

46 accordance with this section shall be treated as an overpayment or excess contribution subject
47 to section fourteen-c of this article and no military service shall be credited.

48 (7) To calculate the amount of military service credit an active member may purchase, the
49 retirement board shall add the total number of points accrued in a qualifying year, divide the total
50 by fifteen, and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded
51 up), in order to yield the total number of months of military service credit an active member may
52 purchase, subject to the sixty-month maximum. An active member may purchase in one-month
53 increments all or part of the maximum amount of military service credit for which he or she is
54 eligible.

55 (8) If a member who has purchased military service credit pursuant to this subsection is
56 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of
57 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or
58 she paid to the retirement system to purchase military service credit, together with regular interest
59 on the amount.

60 (9) Military service credit purchased pursuant to this subsection may not be considered
61 contributing service credit or contributory service for purposes of this article.

62 (b)(1) Active members of an employer who continue concurrently in active service of the
63 State of West Virginia with the West Virginia National Guard after the eligible period to purchase
64 military service credit as set forth in subsection (a) of this section, or active members who join the
65 West Virginia National Guard after participation in the retirement system has commenced may
66 purchase military service credit earned after the service computed under subsection (a) of this
67 section up to the sixty-month maximum in every even calendar year following if the following
68 conditions are met:

69 (A) The active member substantiates by appropriate documentation or evidence his or her
70 service in the West Virginia National Guard;

71 (B) The active member has completed a complete fiscal year of contributory service to the
72 retirement system in the prior odd year; and

73 (C) The active member pays to the retirement system the actuarial reserve purchase
74 amount within three months from the date of the cost letter provided by the retirement board and
75 while he or she continues to be in the employ of an employer and contributing to the retirement
76 system: *Provided*, That a member who ceases employment with an employer before completing
77 the required actuarial reserve purchase amount in full is not eligible to purchase the military
78 service credit.

79 (2) Any member of the retirement system who serves or has served in the West Virginia
80 National Guard may purchase one month of military service credit for every fifteen points earned
81 toward a reserve component retirement during a qualifying year as computed in subdivision (6)
82 of this subsection. For purposes of this section, points will be verified using the Army National
83 Guard Current Annual Statement, Point Credit Summary or other equivalent document, along with
84 any documentation of any periods of Active service with the State of West Virginia as verified by
85 the Adjutant General's office. All documentation shall be submitted to the retirement board by the
86 active member.

87 (3) In no event, however, may a member purchase or receive a total of more than sixty
88 months of military service credit under this section, section seventeen-a, article seven-a, chapter
89 eighteen, or any other retirement system administered by the retirement board.

90 (4) In any case of doubt as to the period of service to be credited a member under the
91 provisions of this section, the retirement board shall have final power to determine the period.

92 (5) To receive credit, an active member must submit a request to purchase military service
93 credit to the retirement board, on such form or in such other manner as shall be required by the
94 retirement board, by October 31 of each even calendar year following the years computed under
95 subsection (a) of this section. The retirement board shall then calculate the actuarial reserve lump
96 sum purchase amount, which amount must be paid by the active member within three months

97 from the date of the cost letter provided by the retirement board. An active member purchasing
98 military service credit pursuant to this subsection must do so in a single, lump sum payment.

99 (6) To calculate the amount of military service credit an active member may purchase, the
100 retirement board shall add the total number of points accrued in a qualifying year, divide the total
101 by fifteen and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded
102 up), in order to yield the total number of months of military service credit an active member may
103 purchase, subject to the sixty-month maximum. An active member may purchase in one month
104 increments, all or part of the maximum amount of military service credit for which he or she is
105 eligible.

106 (7) If a member who has purchased military service credit pursuant to this subsection is
107 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of
108 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or
109 she paid to the retirement system to purchase military service credit, together with regular interest
110 on the amount.

111 (8) Military service credit purchased pursuant to this subsection may not be considered
112 contributing service credit or contributory service for purposes of this article.

113 (c) For purposes of this section:

114 (1) "Active service of the State of West Virginia" means full-time state active duty in the
115 West Virginia Army National Guard or the West Virginia Air National Guard when the duty is
116 performed upon orders of the Adjutant General of the West Virginia National Guard or the
117 Governor of West Virginia and which is funded entirely by the state.

118 (2) "Actuarial reserve purchase amount" means the purchase annuity rate multiplied by
119 the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing
120 at seven and one-half percent from the calculation month through the purchase month,
121 compounded monthly: *Provided*, That if the employee elects to pay the full purchase amount on
122 an installment or partial payment basis as permitted under subsection (a) of this section, the

123 actuarial reserve purchase amount will include the lump sum payment plus additional interest
124 accruing at seven and one-half percent until the purchase amount is paid in full.

125 (3) "Calculation month" means the month immediately following the month in which the
126 employee completes a complete fiscal year of contributory service with an employer on or after
127 July 2015 for computations under subsection (a) of this section, or the month immediately
128 following the month in which the employee completes a complete fiscal year of contributory
129 service with an employer in the preceding odd calendar year for computations under subsection
130 (b) of this section.

131 (4) "Purchase accrued benefit" means two percent times the purchase military service
132 times the purchase average monthly salary.

133 (5) "Purchase age" means the age of the employee in years and completed months as of
134 the first day of the calculation month.

135 (6) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of
136 the calculation month based on the following actuarial assumptions:

137 (A) Interest rate of seven and one-half percent;

138 (B) Mortality of the 1971 group annuity mortality table, fifty percent blended male and
139 female rates, applied on a unisex basis to all members; and

140 (C) If purchase age is under age sixty-two, a deferred annuity factor with payments
141 commencing at age sixty-two; or

142 (D) If purchase age is sixty-two or over, an immediate annuity factor with payments starting
143 at the purchase age.

144 (7) "Purchase average monthly salary" means the average monthly salary of the active
145 member during the number of months of the member's contract during the fiscal year of
146 contributory service as required by this section.

147 (8) "Purchase military service" means the amount of military service being purchased by
148 the active member in months up to the sixty-month maximum, calculated in accordance with
149 subdivision (7) of subsection (a) and subdivision (6) of Subsection (b) of this section.

150 (9) “Purchase month” means the month in which the active member deposits the actuarial
151 reserve lump sum purchase amount in full payment of the service credit being purchased or
152 makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full
153 payment of the service credit being purchased.

154 (10) “Qualifying year” means any year in which a member earns the minimum number of
155 points required to receive credit for the year toward retired pay pursuant to Section 12732 of Title
156 10, United States Code.

157 (11) “Service in the West Virginia National Guard” means full-time active duty for annual
158 training in the National Guard, Inactive Duty Training, Active Duty Operational Support, Active
159 Duty Special Work, funeral honors, State Active Duty as a member of the West Virginia National
160 Guard or any other similar periods of Title 32 service or active service of the State of West Virginia.

161 (12) “West Virginia National Guard” means the West Virginia Army National Guard and
162 the West Virginia Air National Guard.

163 (d) The retirement board is authorized to determine all questions and make all decisions
164 relating to this section and, pursuant to the authority granted to the retirement board in section
165 one, article ten-d of chapter five, may propose rules for legislative approval in accordance with
166 the provisions of article three, chapter twenty-nine-a of this code to administer this section.

NOTE: The purpose of this bill is to allow members of the West Virginia National Guard the option to purchase military service credit.

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