

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 277

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[Originating in the Committee on Pensions; Reported
on February 16, 2018]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §5-10D-13, relating to permitting members of public retirement plans to cash
3 out of their plans by opting to receive, in lieu of regular benefit payments, the total cash
4 value of those benefits.

Be it enacted by the Legislature of West Virginia:

**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 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.

**§5-10D-13. Option to cash out of public retirement systems in lieu of receiving a retirement
annuity.**

1 (a) Notwithstanding any provision of this code or any legislative rule to the contrary,
2 beginning July 1, 2019, a vested member of a public retirement plan administered by the
3 Consolidated Public Retirement Board pursuant to §5-10D-1 et seq. of this code, except the West
4 Virginia Deputy Sheriffs Retirement System created by §7-14D-1 et seq. of this code, the West
5 Virginia Municipal Police Officers and Firefighters Retirement System created by §8-22A-1 et seq.
6 of this code, the Emergency Medical Services Retirement System created by §16-5v-1 et seq. of
7 this code, and the Teachers' Defined Contribution Retirement System created by §18-7B-1 et
8 seq. of this code, who has reached eligibility for regular retirement under the terms of the relevant
9 retirement plan and has terminated employment, may elect to receive the present value cash
10 equivalent of all or a portion of the member's public pension fund benefit in lieu of receiving a
11 retirement annuity.

12 (b) Eligibility for lump-sum option prior to regular retirement date. – A vested member who
13 has not reached regular retirement age and has terminated employment may only qualify for the
14 present value cash equivalent option if he or she establishes to the Consolidated Public
15 Retirement Board's satisfaction, by way of sworn statement from a treating physician, that he or

16 she has been diagnosed with a terminal illness, which is expected to result in the member's death
17 within 12 months from the date of application for the lump-sum payout.

18 (c) The funds to pay the cash options made available by §5-10D-13(a) of this code shall
19 be paid by the member's retirement plan and from West Virginia's Revenue Shortfall Reserve
20 Fund established by §11B-2-20 of this code. The percentage of the payout paid by member's
21 retirement plan shall equal the funded percentage of the plan's actuarial accrued liability as of the
22 most recent actuarial valuation for funding completed by the Consolidated Public Retirement
23 Board. The remaining percentage shall be paid by West Virginia's Revenue Shortfall Reserve
24 Fund. If the actuarial accrued liability of the member's retirement plan is more than 100% funded,
25 then 100% of the payout shall be paid by the member's retirement plan.

26 (d) A vested member who has reached eligibility for regular retirement under the terms of
27 the relevant retirement plan and has terminated employment may elect to receive 50 percent of
28 the present value cash equivalent of the member's public pension fund benefit and 50 percent of
29 the retirement annuity payable based upon the options provided by the member's retirement plan.

30 (e) Any member who has rendered or is under review by the Consolidated Public
31 Retirement Board for potentially rendering less than honorable service pursuant to W.Va. Code
32 §5-10A-1 et seq. is not eligible for the benefit provided under this section.

33 (f) To implement the provisions of this section, the Consolidated Public Retirement Board
34 shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq.
35 of this code.

NOTE: The purpose of this bill is to permit public employees to cash out of their retirement plans instead of receiving periodic pension payments over their lifetimes.

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