

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 539

SENATORS MANN, BALDWIN, FACEMIRE, IHLENFELD,
JEFFRIES, MARONEY, ROMANO, RUCKER, STOLLINGS,
TAKUBO, WELD, WOELFEL, UNGER, HAMILTON,
HARDESTY, BEACH, PREZIOSO, PLYMALE, SWOPE, TARR,
CLINE, AND LINDSAY, *original sponsors*

[Passed March 9, 2019; in effect 90 days from
passage]

1 AN ACT to amend and reenact §5-10D-1 of the Code of West Virginia, 1931, as amended; and
2 to amend and reenact §15-2A-6 of said code, all relating to the West Virginia State Police
3 Retirement System; increasing accrued benefit of retirees in the West Virginia State Police
4 Retirement System on a certain date; and adding a member to the Consolidated Public
5 Retirement Board who is a member, annuitant, or retirant of the West Virginia State Police
6 Retirement System.

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-1. Consolidated Public Retirement Board continued; members; vacancies;
investment of plan funds.**

1 (a) The Consolidated Public Retirement Board is continued to administer all public
2 retirement plans in this state. It shall administer the Public Employees Retirement System
3 established in §5-10-1 *et seq.* of this code; the Teachers Retirement System established in §18-
4 7A-1 *et seq.* of this code; the Teachers' Defined Contribution Retirement System created by §18-
5 7B-1 *et seq.* of this code; the West Virginia State Police Death, Disability, and Retirement Fund
6 created by §15-2-1 *et seq.* of this code; the West Virginia State Police Retirement System created
7 by §15-2A-1 *et seq.* of this code; the Deputy Sheriff Death, Disability, and Retirement Fund
8 created by §7-14D-1 *et seq.* of this code; the Judges' Retirement System created under §51-9-1
9 *et seq.* of this code; the Emergency Medical Services Retirement System established in §16-5V-

10 1 *et seq.* of this code; and the Municipal Police Officers and Firefighters Retirement System
11 established in §8-22A-1 *et seq.* of this code.

12 (b) The membership of the Consolidated Public Retirement Board consists of:

13 (1) The Governor or his or her designee;

14 (2) The State Treasurer or his or her designee;

15 (3) The State Auditor or his or her designee;

16 (4) The Secretary of the Department of Administration or his or her designee;

17 (5) Four residents of the state, who are not members, retirants, or beneficiaries of any of
18 the public retirement systems, to be appointed by the Governor, with the advice and consent of
19 the Senate; and

20 (6) A member, annuitant, or retirant of the Public Employees Retirement System who is
21 or was a state employee; a member, annuitant, or retirant of the Public Employees Retirement
22 System who is not or was not a state employee; a member, annuitant, or retirant of the Teachers
23 Retirement System; a member, annuitant, or retirant of the West Virginia State Police Death,
24 Disability, and Retirement Fund; a member, annuitant, or retirant of the West Virginia State Police
25 Retirement System; a member, annuitant, or retirant of the Deputy Sheriff Death, Disability, and
26 Retirement Fund; a member, annuitant, or retirant of the Teachers' Defined Contribution
27 Retirement System; a member, annuitant, or retirant of the Emergency Medical Services
28 Retirement System; and beginning as soon as practicable after January 1, 2010, one person who
29 is a member, annuitant, or retirant of a municipal policemen's or firemen's pension and relief fund
30 or the West Virginia Municipal Police Officers and Firefighters Retirement System, all to be
31 appointed by the Governor, with the advice and consent of the Senate. The Governor shall choose
32 the member representing the municipal policemen's or firemen's pension and relief fund or the
33 West Virginia Municipal Police Officers and Firefighters Retirement System from two names
34 submitted by the state's largest organization of professional police officers and two names
35 submitted by the state's largest organization of professional firefighters. Representation of the

36 municipal police officers and firefighters shall alternate after each term on the board between
37 persons having police officer and firefighter affiliation so that each professional group is
38 represented on the board every other term.

39 All appointees to the board shall have recognized competence or significant experience
40 in pension management or administration, actuarial analysis, institutional management, or
41 accounting. Those members appointed prior to January 1, 2010, shall be considered to have met
42 these qualifications. One trustee shall be an attorney experienced in finance and pension matters
43 and one trustee shall be a certified public accountant. Each member of the board must complete
44 annual fiduciary training and timely complete any conflict of interest forms required to serve as a
45 trustee.

46 (c) The appointed members of the board shall serve five-year terms. A member appointed
47 pursuant to subdivision (6), subsection (b) of this section ceases to be a member of the board if
48 he or she ceases to be a member of the represented system. If a vacancy occurs in the appointed
49 membership, the Governor, within 60 days, shall fill the vacancy by appointment for the unexpired
50 term. No more than six appointees may be of the same political party.

51 (d) The Consolidated Public Retirement Board has all the powers, duties, responsibilities,
52 and liabilities of the Public Employees Retirement System established pursuant to §5-10-1 *et seq.*
53 of this code; the Teachers Retirement System established pursuant to §18-7A-1 *et seq.* of this
54 code; the Teachers' Defined Contribution Retirement System established pursuant to §18-7B-1
55 *et seq.* of this code; the West Virginia State Police Death, Disability, and Retirement Fund created
56 pursuant to §15-2-1 *et seq.* of this code; the West Virginia State Police Retirement System created
57 by §15-2A-1 *et seq.* of this code; the Deputy Sheriff Death, Disability, and Retirement Fund
58 created pursuant to §7-14D-1 *et seq.* of this code; the Judges' Retirement System created
59 pursuant to §51-9-1 *et seq.* of this code; the Emergency Medical Services Retirement System
60 established in §16-5V-1 *et seq.* of this code; and the Municipal Police Officers and Firefighters

61 Retirement System created pursuant to §8-22A-1 *et seq.* of this code, and their appropriate
62 governing boards.

63 (e) The Consolidated Public Retirement Board may propose rules for legislative approval,
64 in accordance with §29A-3-1 *et seq.* of this code, necessary to effectuate its powers, duties, and
65 responsibilities: *Provided*, That the board may adopt any or all of the rules, previously
66 promulgated, of a retirement system which it administers.

67 (f) (1) The Consolidated Public Retirement Board shall continue to transfer all funds
68 received for the benefit of the retirement systems, including, but not limited to, all employer and
69 employee contributions, to the West Virginia Investment Management Board: *Provided*, That the
70 employer and employee contributions of the Teachers' Defined Contribution Retirement System,
71 established in §18-7B-3 of this code, and voluntary deferred compensation funds invested by the
72 West Virginia Consolidated Public Retirement Board pursuant to §5-10B-5 of this code may not
73 be transferred to the West Virginia Investment Management Board.

74 (2) The board may recover from a participating employer that fails to pay any amount due
75 a retirement system in a timely manner the contribution due and an additional amount not to
76 exceed interest or other earnings lost as a result of the untimely payment, or a reasonable
77 minimum fee, whichever is greater, as provided by legislative rule promulgated pursuant to the
78 provisions of §29A-3-1 *et seq.* of this code. Any amounts recovered shall be administered in the
79 same manner in which the amount due is required to be administered.

80 (g) Notwithstanding any provision of this code or any legislative rule to the contrary, all
81 assets of the public retirement plans set forth in subsection (a) of this section shall be held in trust.
82 The Consolidated Public Retirement Board is a trustee for all public retirement plans, except with
83 regard to the investment of funds: *Provided*, That the Consolidated Public Retirement Board is a
84 trustee with regard to the investments of the Teachers' Defined Contribution Retirement System
85 and any other assets of the public retirement plans administered by the Consolidated Public

86 Retirement Board as set forth in subsection (a) of this section for which no trustee has been
87 expressly designated in this code.

88 (h) The board may employ the West Virginia Investment Management Board to provide
89 investment management consulting services for the investment of funds in the Teachers' Defined
90 Contribution Retirement System.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-6. Retirement; commencement of benefits.

1 (a) A member may retire with full benefits upon attaining the age of 50 and completing 25
2 or more years of service or attaining the age of 52 and completing 20 years or more of service by
3 filing with the board his or her voluntary application in writing for retirement. A member who is less
4 than age 52 may retire upon completing 20 years or more of service: *Provided*, That he or she
5 will receive a reduced benefit that is of equal actuarial value to the benefit the member would
6 have received if the member deferred commencement of his or her accrued retirement benefit to
7 the age of 52.

8 (b) When the board retires a member with full benefits under the provisions of this section,
9 the board, by order in writing, shall make a determination that the member is entitled to receive
10 an annuity equal to two and three-fourths percent of his or her final average salary multiplied by
11 the number of years, and fraction of a year, of his or her service at the time of retirement: *Provided*,
12 That beginning July 1, 2019, the member is entitled to receive an annuity equal to three percent
13 of his or her final average salary multiplied by the number of years, and fraction of a year, of his
14 or her service at the time of retirement: *Provided, however*, That the amendments to this
15 subsection enacted during the regular session of the Legislature, 2019, apply to current retirants.
16 Any annuity calculated pursuant to the provisions of this subsection are subject to reduction if
17 necessary to comply with the maximum benefit provisions of Section 415 of the Internal Revenue

18 Code and §15-2A-6a of this code. The retirant's annuity shall begin the first day of the calendar
19 month following the month in which the member's application for the annuity is filed with the board
20 on or after his or her attaining age and service requirements and termination of employment.

21 (c) In no event may the provisions of §5-16-13 of this code be applied in determining
22 eligibility to retire with either a deferred or immediate commencement of benefit.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

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Governor