

1 **H. B. 2767**

2
3 (By Delegates Butcher, Stowers, Rodighiero,
4 Walker, Skaff and Hall)

5
6 [Introduced January 24, 2011; referred to the
7 Committee on Pensions and Retirement then Finance.]

8 **FISCAL**
9 **NOTE**

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §5-5-7; to amend said
12 code by adding thereto a new section, designated §5-10-22k;
13 and to amend said code by adding thereto a new section,
14 designated §18-7A-26v, all relating to providing cost-of--
15 living adjustments for certain current and former public
16 employees generally; providing a \$1,200 cost-of-living
17 adjustment to be paid in full by June 30, 2011; providing for
18 selection of payment date by the State Auditor; requiring
19 payment of the cost-of-living adjustments upon authorization;
20 providing for transfer and expenditure of funding appropriated
21 to State Budget Office to spending units and county boards of
22 education for payment of the cost-of-living adjustments;
23 defining terms; providing for \$1,200 cost-of-living adjustment
24 to certain retirees of the Public Employees Retirement System
25 and the state Teachers Retirement System by June 30, 2011; and
26 providing for the pro rata distribution of the cost-of-living

1 adjustment to certain beneficiaries.

2 *Be it enacted by the Legislature of West Virginia:*

3 That the Code of West Virginia, 1931, as amended, be amended
4 by adding thereto a new section, designated §5-5-7; that said code
5 be amended by adding thereto a new section, designated §5-10-22k;
6 and that said code be amended by adding thereto a new section,
7 designated §18-7A-26v, all to read as follows:

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

12 **ARTICLE 5. SALARY INCREASE FOR STATE EMPLOYEES.**

13 **§5-5-7. Authorizing cost-of-living adjustments to full-time public**
14 **employees.**

15 (a) A \$1,200 cost-of-living adjustment is authorized for
16 public employees with at least one hundred eighty calendar days of
17 continuous service as of July 1, 2010. The cost-of-living
18 adjustment authorized by the provisions of this section shall be
19 paid no later than June 30, 2011.

20 (b) The cost-of-living adjustment authorized pursuant to this
21 section shall be timely paid to eligible public employees:
22 Provided, That a pro rata a lump-sum payment shall be paid on a
23 date selected by the Auditor of West Virginia, retro-active to July
24 1, 2010, for eligible public employees, or, in the case of a public

1 employee who is employed by a county board of education, by the
2 appropriate county official, retro-active to July 1, 2010:
3 Provided, however, That all employees shall be paid in full by June
4 30, 2011.

5 (c) The cost-of-living adjustment authorized pursuant to this
6 section is in addition to any across-the-board salary increase
7 which may be granted by the Legislature, or incremental salary
8 increase based on years of service in accordance with the
9 provisions of section two of this article. However, this section
10 may not be construed to limit any other increase of the base salary
11 of any public employee or education employee.

12 (d) This section may not be construed to prohibit other pay
13 increases based on merit, seniority, promotion or other reason if
14 funds are available for the other pay increases.

15 (e) It is the intent of the Legislature that the cost-of-living
16 adjustment authorized by this section be paid to each eligible
17 public employee in full by June 30, 2011. Accordingly, the cost-
18 of-living adjustments paid in accordance with this section shall be
19 provided to each eligible public employee by the spending unit, or
20 in the case of school personnel by the county board of education,
21 which employs the eligible public employee.

22 (f) Upon authorization of the cost-of-living adjustment, from
23 the funding appropriated to the Department of Revenue, State Budget
24 Office, as realized from the surplus in fiscal year 2010, the funds

1 necessary to pay in full each eligible public employee's \$1,200
2 cost-of-living adjustment and any necessary employer match or such
3 proportionate share thereof that the spending unit or county board
4 of education demonstrates to the state Budget Office it is without
5 sufficient funds from other sources to provide, shall be transferred
6 by the state Budget Office to the appropriate spending unit or
7 county board of education, each of which are hereby authorized to
8 expend such amounts to provide the cost-of-living adjustment.

9 (g) For purposes of this section, "public employee" means a
10 full-time employee who is an "eligible employee," as that term is
11 defined in section one of this article, "school personnel," as that
12 term is defined in section one, article one, chapter eighteen-a of
13 this code, a member of the West Virginia State Police whose salary
14 is fixed and specified pursuant to section five, article two,
15 chapter fifteen of this code, a conservation officer whose salary
16 is fixed and specified pursuant to section one-c, article seven,
17 chapter twenty of this code, and a "nonclassified employee" as that
18 term is defined in section two, article nine, chapter eighteen-b of
19 this code.

20 (h) The cost-of-living adjustment authorized pursuant to this
21 section shall be paid to all eligible employees in aggregate lump
22 sum pro rated so that all eligible employees are paid in full no
23 later than June 30, 2011. It is the intent of the Legislature that
24 the cost-of-living adjustment authorized by this section be retro-

1 active to July 1, 2010, when the budget surplus was realized.

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

3 **§5-10-22k. Cost-of-living adjustments for certain annuitants**
4 **effective on or before June 30, 2011.**

5 (a) As an additional cost-of-living adjustment to other
6 retirement allowances provided, a cost-of-living adjustment to
7 retirement benefits shall be paid to retirees of the system as
8 provided in subsection (b) of this section. The cost-of-living
9 adjustment shall equal \$1,200 and shall be paid in full by June 30,
10 2011.

11 (b) The cost-of-living adjustment provided by this section
12 applies to any retiree who currently receives an annual retirement
13 annuity. This cost-of-living adjustment is subject to any
14 applicable limitations under Section 415 of the Internal Revenue
15 Code of 1986, as amended.

16 (c) The cost-of-living adjustment provided by this section
17 shall be payable pro rata to any beneficiaries of a qualifying
18 retiree who currently receive an annuity or other benefit payable
19 by the system. It is the intent of the Legislature that the cost-
20 of-living adjustment authorized by this section be retroactive to
21 July 1, 2010, when the budget surplus was realized.

22 **CHAPTER 18. EDUCATION.**

23 **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

24 **§18-7A-26v. Cost-of-living adjustments for certain annuitants**

1 effective on or before June 30, 2011.

2 (a) As an additional cost-of-living adjustment to other
3 retirement allowances provided, a cost-of-living adjustment to
4 retirement benefits shall be paid to certain retirees of the
5 retirement system as provided in subsection (b) of this section.
6 The cost-of-living adjustment shall equal \$1,200 and shall be paid
7 in full by June 30, 2011.

8 (b) The cost-of-living adjustment provided in this section
9 applies to any retiree who currently receives an annual retirement
10 annuity. This cost-of-living adjustment is subject to any
11 applicable limitations under Section 415 of the Internal Revenue
12 Code of 1986, as amended.

13 (c) The cost-of-living adjustment provided by this section
14 shall be payable pro rata to any beneficiaries of a qualifying
15 retiree who currently receives an annuity or other benefit payable
16 by the retirement system. It is the intent of the Legislature that
17 the cost-of-living adjustment authorized by this section be
18 retroactive to July 1, 2010, when the budget surplus was realized.

NOTE: The purpose of this bill is to provide a \$1,200 cost of living adjustment to all eligible state employees and retirees.

§5-5-7, §5-10-22k and §18-7A-26v are new; therefore, they have been completely underscored.