

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2887

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BLAIR, WILSON, COOPER AND HIGGINBOTHAM

[Originating in the Committee on Education;

March 24, 2017]

1 A BILL to amend and reenact §18B-1-1d of the Code of West Virginia, 1931, as amended, relating
2 to retirement and separation incentives.

Be it enacted by the Legislature of West Virginia:

1 That §18B-1-1d of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 1. GOVERNANCE.

§18B-1-1d. Retirement and separation incentives.

1 (a) Notwithstanding any other provisions of this code to the contrary, each state institution
2 of higher education may ~~include in its strategic plan, pursuant to section one-c of this article~~ adopt
3 policies that offer various incentives for voluntary, early or phased retirement of employees or
4 voluntary separation from employment when necessary to respond to a decline in state revenues
5 supporting higher education, or to implement programmatic changes effectively pursuant to ~~the~~
6 findings, directives, goals and objectives of this article and as established by the institution's board
7 of governors: *Provided*, That such incentives for voluntary, early or phased retirement of
8 employees or voluntary separation from employment must be submitted by the governing board
9 to the Legislative Joint Committee on Pensions and Retirement ~~and approved before such policies~~
10 ~~are adopted as part of the institution's strategic plan~~ at least sixty days prior to the effective date
11 of the policy.

12 ~~(b) Effective the first day of July, two thousand one, each state institution of higher~~
13 ~~education may implement, under its institutional compact, created pursuant to section two, article~~
14 ~~one-a of this chapter, policies that offer various incentives for voluntary, early or phased retirement~~
15 ~~of employees, or voluntary separation from employment, when necessary to implement~~
16 ~~programmatic changes effectively: Provided, That the institution shall meet all the requirements,~~
17 ~~including the requirement for obtaining legislative approval, set forth in this section~~

18 (c) (b) The policies may include the following provisions:

19 (1) Payment of a lump sum to an employee to resign or retire, which lump sum will be
20 excluded from the calculation of the employee's average final salary under article seven-a,
21 chapter eighteen of this code;

22 (2) Continuation of full or a reduced salary to an employee for a predetermined period of
23 time prior to the employee's resignation or retirement and a reduction in the employee's hours of
24 employment during the predetermined period of time;

25 (3) Continuation of insurance coverage pursuant to the provisions of article sixteen,
26 chapter five of this code for a predetermined period;

27 (4) Continuation of full employer contributions to an employee's retirement plan during a
28 phased retirement period; and

29 (5) That an employee retiring pursuant to an early or phased retirement plan may begin
30 collecting an annuity from the employee's retirement plan prior to the statutorily designated
31 retirement date without terminating his or her service with the institution.

32 ~~(d)~~ (c) No incentive provided for in this section shall be granted except to respond to a
33 decline in state revenues supporting higher education or in furtherance of programmatic changes
34 undertaken pursuant to the findings, directives, goals and objectives set forth in this article.

35 ~~(e) No incentive proposed by an institution pursuant to this section shall become a part of~~
36 ~~the institution's approved strategic plan or institutional compact or be implemented without~~
37 ~~approval of the legislative joint committee on pensions and retirement.~~

38 (d) Any costs associated with any incentive adopted or implemented in accordance with
39 this section shall be borne entirely by the institutions and no incentive shall be granted that
40 imposes costs on the retirement systems of the state or the Public Employees Insurance Agency
41 unless those costs are paid entirely by the institutions: Provided, That if an employee is sixty-five
42 years of age or older and vested and eligible to retire under a retirement system of the state at
43 the time the employee voluntarily separates from the institution pursuant to a plan authorized
44 under this section, there shall be no costs attributable to, or required to be paid by, a state

45 institution of higher education, to the applicable retirement system of the state resulting from that
46 voluntary separation. Any state institution of higher education shall enter into memoranda of
47 understanding with the Public Employees Insurance Agency and any affected retirement system
48 prior to implementation of any incentive with any employee which must state any cost to the
49 retirement system or the Public Employees Insurance Agency and that this cost is to be paid by
50 the institution upon the implementation of any incentive with any employee. No incentive may be
51 granted unless memoranda of understanding are filed with the retirement system, the Public
52 Employees Insurance Agency and the institution that sets forth any cost to the retirement system
53 and the Public Employees Insurance Agency and the agreement of the institution to pay the same
54 by a date certain, or if there is no cost, the agreement of the parties to the same. Any incentive
55 granted without such memoranda of understanding are unlawful. Any memoranda of
56 understanding entered into by a state institution of higher education pursuant to this subsection
57 must be presented to the Legislative Joint Committee on Pensions and Retirement along with the
58 policy as required by subsection (a) of this section.

59 (f) (e) The Legislature further finds and declares that there is a compelling state interest in
60 restricting the availability and application of these incentives to individual employees determined
61 by the institutions to be in furtherance of the aims of this section and nothing herein shall be
62 interpreted as granting a right or entitlement of any such incentive to any individual or group of
63 individuals. Any employee granted incentives shall be ineligible for reemployment by the
64 institutions during or after the negotiated period of his or her incentive concludes, including
65 contract employment in excess of five thousand dollars per fiscal year.

66 (g) (f) The West Virginia Network for Educational Telecomputing, the Higher Education
67 Policy Commission and the Council for Community and Technical Colleges may ~~utilize~~ use the
68 incentives contained in any policy approved by ~~the legislative joint committee on pensions and~~
69 ~~retirement~~ a state institution of higher education pursuant to this section and are subject to the
70 same requirements in this section as if they were a state institution of higher education.