

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Senate Bill 458

By Senator Nelson

[Passed March 06, 2023; in effect 90 days from
passage]

1 AN ACT to amend and reenact §5-10D-13 of the Code of West Virginia, 1931, as amended; and to
2 amend said code by adding thereto a new section, designated §5-10D-14, all relating to
3 the Consolidated Public Retirement Board; setting the rate of interest on delinquent
4 retirement contribution submissions; and prohibiting employer unilateral termination
5 without legislative action.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.

§5-10D-13. Withholding state and county money to satisfy delinquencies.

1 (a) If any employer participating in a retirement plan administered by the Consolidated
2 Public Retirement Board pursuant to §5-10D-1 *et seq.* of this code fails to make any payment due
3 to the retirement system for a period of 60 days after the payment is due, the participating
4 employer is delinquent, and the delinquency shall be certified by the Consolidated Public
5 Retirement Board to the State Auditor, the county commission of the county in which the
6 participating employer is located, and the sheriff of the county in which the participating employer
7 is located. If any participating employer becomes delinquent as provided in this section, the State
8 Auditor, county commission, or sheriff is authorized and directed to withhold any money due the
9 participating employer by the state or county until the delinquency, together with interest thereon,
10 is satisfied. The rate of interest applicable to the delinquency shall be the actuarial interest rate
11 assumption as approved by the Consolidated Public Retirement Board for completing the actuarial
12 valuation for the plan year immediately preceding the first day of the plan year in which the
13 delinquency payment is made, compounded daily, and the minimum interest charge is \$50. The
14 money withheld by the State Auditor, county commission, or sheriff shall be paid to the applicable
15 retirement system on behalf of the participating employer.

16 (b) The Consolidated Public Retirement Board shall provide notice to the participating
17 employer 30 days prior to certifying delinquency under this section.

§5-10D-14. Employer unilateral termination of participation prohibited.

1 Once an employer has begun participating, whether by election or by operation of law, in
2 any public retirement system administered pursuant to this article, it may not terminate its
3 participation without affirmative legislative action.