

SB 650

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WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 650

(SENATORS FOSTER, OLIVERIO AND
PLYMALE, *original sponsors*)

[Passed March 8, 2008; in effect ninety days from passage.]

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CLERK OF SENATE
WEST VIRGINIA
DEPARTMENT OF STATE

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AN ACT to amend and reenact §16-5V-2, §16-5V-6, §16-5V-8, §16-5V-9, §16-5V-14, §16-5V-18, §16-5V-19, §16-5V-25 and §16-5V-32 of the Code of West Virginia, 1931, as amended, all relating to the Emergency Medical Services Retirement System; adding and modifying definitions; specifying that members hired after the effective date of this plan are members of the plan as a condition of employment; clarifying language relating to the

participation of public employers in this plan; clarifying language relating to the transfer of Public Employees Retirement System service credit and reinstatement of service as an emergency medical services officer; specifying the date on which contributions are due the fund and providing for delinquency fees for late payments; clarifying language relating to purchase of prior service and providing for delinquency fees for late payments; eliminating minimum required eligible direct rollover distributions paid directly to an eligible retirement plan; allowing distributions totaling less than two hundred dollars within the definition of eligible rollover distribution; clarifying the language relating to the benefit awarded for a duty disability; adding provisions for the payment of additional death benefits; clarifying language relating to the effective date for receipt of a duty disability benefit; and making a correction to the time period for which the Joint Committee on Government and Finance shall conduct an interim study on the potential effects of the implementation of this plan.

Be it enacted by the Legislature of West Virginia:

That §16-5V-2, §16-5V-6, §16-5V-8, §16-5V-9, §16-5V-14, §16-5V-18, §16-5V-19, §16-5V-25 and §16-5V-32 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-2. Definitions.

1 As used in this article, unless a federal law or
2 regulation or the context clearly requires a different
3 meaning:

4 (a) "Accrued benefit" means on behalf of any member
5 two and six-tenths percent per year of the member's
6 final average salary for the first twenty years of credited
7 service. Additionally, two percent per year for
8 twenty-one through twenty-five years and one percent
9 per year for twenty-six through thirty years will be
10 credited with a maximum benefit of sixty-seven
11 percent. A member's accrued benefit may not exceed
12 the limits of Section 415 of the Internal Revenue Code
13 and is subject to the provisions of section twelve of this
14 article.

15 (1) The board may upon the recommendation of the
16 board's actuary increase the employees' contribution
17 rate to ten and five-tenths percent should the funding of
18 the plan not reach seventy percent funded by the first
19 day of July, two thousand twelve. The board shall
20 decrease the contribution rate to eight and one-half
21 percent once the plan funding reaches the seventy
22 percent support objective as of any later actuarial
23 valuation date.

24 (2) Upon reaching the seventy-five percent actuarial
25 funded level, as of an actuarial valuation date, the
26 board shall increase the two and six-tenths percent to
27 two and three-quarter percent for the first twenty years
28 of credited service. The maximum benefit will also be
29 increased from sixty-seven percent to seventy percent.

30 (b) "Accumulated contributions" means the sum of all
31 retirement contributions deducted from the
32 compensation of a member, or paid on his or her behalf
33 as a result of covered employment, together with regular
34 interest on the deducted amounts.

35 (c) "Active military duty" means full-time active duty
36 with any branch of the armed forces of the United
37 States, including service with the National Guard or
38 Reserve military forces when the member has been
39 called to active full-time duty and has received no
40 compensation during the period of that duty from any
41 board or employer other than the armed forces.

42 (d) "Actuarial equivalent" means a benefit of equal
43 value computed upon the basis of the mortality table
44 and interest rates as set and adopted by the board in
45 accordance with the provisions of this article.

46 (e) "Annual compensation" means the wages paid to
47 the member during covered employment within the
48 meaning of Section 3401(a) of the Internal Revenue
49 Code, but determined without regard to any rules that
50 limit the remuneration included in wages based upon
51 the nature or location of employment or services
52 performed during the plan year plus amounts excluded
53 under Section 414(h)(2) of the Internal Revenue Code
54 and less reimbursements or other expense allowances,
55 cash or noncash fringe benefits or both, deferred
56 compensation and welfare benefits. Annual
57 compensation for determining benefits during any
58 determination period may not exceed one hundred
59 thousand dollars as adjusted for cost-of-living in
60 accordance with Section 401(a)(17)(B) of the Internal
61 Revenue Code.

62 (f) "Annual leave service" means accrued annual
63 leave.

64 (g) "Annuity starting date" means the first day of the
65 month for which an annuity is payable after submission

66 of a retirement application. For purposes of this
67 subsection, if retirement income payments commence
68 after the normal retirement age, "retirement" means the
69 first day of the month following or coincident with the
70 latter of the last day the member worked in covered
71 employment or the member's normal retirement age and
72 after completing proper written application for
73 "retirement" on an application supplied by the board.

74 (h) "Board" means the Consolidated Public
75 Retirement Board.

76 (i) "County commission or political subdivision" has
77 the meaning ascribed to it in this code.

78 (j) "Covered employment" means either: (1)
79 Employment as a full-time emergency medical
80 technician, emergency medical technician/paramedic or
81 emergency medical services/registered nurse and the
82 active performance of the duties required of emergency
83 medical services officers; or (2) the period of time during
84 which active duties are not performed but disability
85 benefits are received under this article; or (3) concurrent
86 employment by an emergency medical services officer in
87 a job or jobs in addition to his or her employment as an
88 emergency medical services officer where the secondary
89 employment requires the emergency medical services
90 officer to be a member of another retirement system
91 which is administered by the Consolidated Public
92 Retirement Board pursuant to this code: *Provided*, That
93 the emergency medical services officer contributes to
94 the fund created in this article the amount specified as
95 the member's contribution in section eight of this
96 article.

97 (k) "Credited service" means the sum of a member's
98 years of service, active military duty, disability service
99 and accrued annual and sick leave service.

100 (l) "Dependent child" means either:

101 (1) An unmarried person under age eighteen who is:

102 (A) A natural child of the member;

103 (B) A legally adopted child of the member;

104 (C) A child who at the time of the member's death was
105 living with the member while the member was an
106 adopting parent during any period of probation; or

107 (D) A stepchild of the member residing in the
108 member's household at the time of the member's death;
109 or

110 (2) Any unmarried child under age twenty-three:

111 (A) Who is enrolled as a full-time student in an
112 accredited college or university;

113 (B) Who was claimed as a dependent by the member
114 for federal income tax purposes at the time of member's
115 death; and

116 (1) Whose relationship with the member is described
117 in paragraph (A), (B) or (C), subdivision (1) of this
118 subsection.

119 (m) "Dependent parent" means the father or mother
120 of the member who was claimed as a dependent by the

121 member for federal income tax purposes at the time of
122 the member's death.

123 (n) "Disability service" means service received by a
124 member, expressed in whole years, fractions thereof or
125 both, equal to one half of the whole years, fractions
126 thereof, or both, during which time a member receives
127 disability benefits under this article.

128 (o) "Early retirement age" means age forty-five or
129 over and completion of twenty years of service.

130 (p) "Effective date" means the first day of January,
131 two thousand eight.

132 (q) "Emergency medical services officer" means an
133 individual employed by the state, county or other
134 political subdivision as a medical professional who is
135 qualified to respond to medical emergencies, aids the
136 sick and injured and arranges or transports to medical
137 facilities, as defined by the West Virginia Office of
138 Emergency Medical Services. This definition is
139 construed to include employed ambulance providers
140 and other services such as law enforcement, rescue or
141 fire department personnel who primarily perform these
142 functions and are not provided any other credited
143 service benefits or retirement plans. These persons may
144 hold the rank of emergency medical technician/basic,
145 emergency medical technician/paramedic, emergency
146 medical services/registered nurse, or others as defined
147 by the West Virginia Office of Emergency Medical
148 Services and the Consolidated Public Retirement Board.

149 (r) "Final average salary" means the average of the
150 highest annual compensation received for covered

151 employment by the member during any five consecutive
152 plan years within the member's last ten years of service
153 while employed, prior to any disability payment. If the
154 member did not have annual compensation for the five
155 full plan years preceding the member's attainment of
156 normal retirement age and during that period the
157 member received disability benefits under this article
158 then "final average salary" means the average of the
159 monthly salary determined paid to the member during
160 that period as determined under section twenty-two of
161 this article multiplied by twelve. "Final average salary"
162 does not include any lump sum payment for unused,
163 accrued leave of any kind or character.

164 (s) "Full-time employment" means permanent
165 employment of an employee by a participating public
166 employer in a position which normally requires twelve
167 months per year service and requires at least one
168 thousand forty hours per year service in that position.

169 (t) "Fund" means the West Virginia Emergency
170 Medical Services Retirement Fund created by this
171 article.

172 (u) "Hour of service" means:

173 (1) Each hour for which a member is paid or entitled
174 to payment for covered employment during which time
175 active duties are performed. These hours shall be
176 credited to the member for the plan year in which the
177 duties are performed; and

178 (2) Each hour for which a member is paid or entitled
179 to payment for covered employment during a plan year
180 but where no duties are performed due to vacation,

181 holiday, illness, incapacity including disability, layoff,
182 jury duty, military duty, leave of absence or any
183 combination thereof and without regard to whether the
184 employment relationship has terminated. Hours under
185 this subdivision shall be calculated and credited
186 pursuant to West Virginia Division of Labor rules. A
187 member will not be credited with any hours of service
188 for any period of time he or she is receiving benefits
189 under section nineteen or twenty of this article; and

190 (3) Each hour for which back pay is either awarded or
191 agreed to be paid by the employing county commission
192 or political subdivision, irrespective of mitigation of
193 damages. The same hours of service shall not be
194 credited both under subdivision (1) or (2) of this
195 subsection and under this subdivision. Hours under this
196 paragraph shall be credited to the member for the plan
197 year or years to which the award or agreement pertains,
198 rather than the plan year in which the award,
199 agreement or payment is made.

200 (v) "Member" means a person first hired as an
201 emergency medical services officer by an employer
202 which is a participating public employer of the Public
203 Employees Retirement System or the Emergency
204 Medical Services Retirement System after the effective
205 date of this article, as defined in subsection (p) of this
206 section, or an emergency medical services officer of an
207 employer which is a participating public employer of
208 the Public Employees Retirement System first hired
209 prior to the effective date and who elects to become a
210 member pursuant to this article. A member shall
211 remain a member until the benefits to which he or she
212 is entitled under this article are paid or forfeited.

213 (w) "Monthly salary" means the W-2 reportable
214 compensation received by a member during the month.

215 (x) "Normal form" means a monthly annuity which is
216 one twelfth of the amount of the member's accrued
217 benefit which is payable for the member's life. If the
218 member dies before the sum of the payments he or she
219 receives equals his or her accumulated contributions on
220 the annuity starting date, the named beneficiary shall
221 receive in one lump sum the difference between the
222 accumulated contributions at the annuity starting date
223 and the total of the retirement income payments made
224 to the member.

225 (y) "Normal retirement age" means the first to occur
226 of the following:

227 (1) Attainment of age fifty years and the completion of
228 twenty or more years of regular contributory service,
229 excluding active military duty, disability service and
230 accrued annual and sick leave service;

231 (2) While still in covered employment, attainment of at
232 least age fifty years and when the sum of current age
233 plus regular contributory years of service equals or
234 exceeds seventy years;

235 (3) While still in covered employment, attainment of at
236 least age sixty years and completion of ten years of
237 regular contributory service; or

238 (4) Attainment of age sixty-two years and completion
239 of five or more years of regular contributory service.

240 (z) "Political subdivision" means a county, city or

241 town in the state; any separate corporation or
242 instrumentality established by one or more counties,
243 cities or towns, as permitted by law; any corporation or
244 instrumentality supported in most part by counties,
245 cities or towns; and any public corporation charged by
246 law with the performance of a governmental function
247 and whose jurisdiction is coextensive with one or more
248 counties, cities or towns: *Provided*, That any public
249 corporation established under section four, article
250 fifteen, chapter seven of this code is considered a
251 political subdivision solely for the purposes of this
252 article.

253 (aa) "Public Employees Retirement System" means
254 the West Virginia Public Employee's Retirement System
255 created by West Virginia Code.

256 (bb) "Plan" means the West Virginia Emergency
257 Medical Services Retirement System established by this
258 article.

259 (cc) "Plan year" means the twelve-month period
260 commencing on the first day of January of any
261 designated year and ending the following thirty-first
262 day of December.

263 (dd) "Regular interest" means the rate or rates of
264 interest per annum, compounded annually, as the board
265 adopts in accordance with the provisions of this article.

266 (ee) "Retirement income payments" means the
267 monthly retirement income payments payable under the
268 plan.

269 (ff) "Spouse" means the person to whom the member

270 is legally married on the annuity starting date.

271 (gg) "Surviving spouse" means the person to whom
272 the member was legally married at the time of the
273 member's death and who survived the member.

274 (hh) "Totally disabled" means a member's inability to
275 engage in substantial gainful activity by reason of any
276 medically determined physical or mental impairment
277 that can be expected to result in death or that has lasted
278 or can be expected to last for a continuous period of not
279 less than twelve months.

280 For purposes of this subsection:

281 (1) A member is totally disabled only if his or her
282 physical or mental impairment or impairments is so
283 severe that he or she is not only unable to perform his or
284 her previous work as an emergency medical services
285 officer but also cannot, considering his or her age,
286 education and work experience, engage in any other
287 kind of substantial gainful employment which exists in
288 the state regardless of whether: (A) The work exists in
289 the immediate area in which the member lives; (B) a
290 specific job vacancy exists; or (C) the member would be
291 hired if he or she applied for work. For purposes of this
292 article, substantial gainful employment is the same
293 definition as used by the United States Social Security
294 Administration.

295 (2) "Physical or mental impairment" is an impairment
296 that results from an anatomical, physiological or
297 psychological abnormality that is demonstrated by
298 medically accepted clinical and laboratory diagnostic
299 techniques. The board may require submission of a

300 member's annual tax return for purposes of monitoring
 301 the earnings limitation.

302 (ii) "Required beginning date" means the first day of
 303 April of the calendar year following the later of: (1) The
 304 calendar year in which the member attains age seventy
 305 and one-half; or (2) the calendar year in which he or she
 306 retires or otherwise separates from covered
 307 employment; or (3) for members who are covered under
 308 the Public Employees Retirement System, their service
 309 shall be recognized upon transfer of assets from the
 310 Public Employees Retirement System according to the
 311 provisions of section nine of this article. Prior service
 312 for members not covered under the Public Employees
 313 Retirement System shall be recognized only upon
 314 repayment of amounts covered under the provisions of
 315 section six of this article.

316 (jj) "Year of service" means a member shall, except in
 317 his or her first and last years of covered employment, be
 318 credited with years of service credit based upon the
 319 hours of service performed as covered employment and
 320 credited to the member during the plan year based upon
 321 the following schedule:

322	Hours of Service Year of Service Credited	
323	Less than 500	0
324	500 to 999	1/3
325	1,000 to 1,499	2/3
326	1,500 or more	1

327 During a member's first and last years of covered
 328 employment, the member shall be credited with one
 329 twelfth of a year of service for each month during the

330 plan year in which the member is credited with an hour
331 of service for which contributions were received by the
332 fund. A member is not entitled to credit for years of
333 service for any time period during which he or she
334 received disability payments under section nineteen or
335 twenty of this article. Except as specifically excluded,
336 years of service include covered employment prior to the
337 effective date.

338 Years of service which are credited to a member prior
339 to his or her receipt of accumulated contributions upon
340 termination of employment pursuant to section eighteen
341 of this article or section thirty, article ten, chapter five
342 of this code, shall be disregarded for all purposes under
343 this plan unless the member repays the accumulated
344 contributions with interest pursuant to section eighteen
345 of this article or has prior to the effective date made the
346 repayment pursuant to section eighteen, article ten,
347 chapter five of this code.

§16-5V-6. Members.

1 (a) Any emergency medical services officer first
2 employed by a county or political subdivision in covered
3 employment after the effective date of this article shall
4 be a member of this retirement plan as a condition of
5 employment and upon membership does not qualify for
6 membership in any other retirement system
7 administered by the board, so long as he or she remains
8 employed in covered employment.

9 (b) Any emergency medical services officer employed
10 in covered employment by an employer which is
11 currently a participating public employer of the Public
12 Employees Retirement System shall notify in writing

13 both the county commission in the county or officials in
14 their political subdivision in which he or she is
15 employed and the board of his or her desire to become
16 a member of the plan by the thirty-first day of
17 December, two thousand seven. Any emergency medical
18 services officer who elects to become a member of the
19 plan ceases to be a member or have any credit for
20 covered employment in any other retirement system
21 administered by the board and shall continue to be
22 ineligible for membership in any other retirement
23 system administered by the board so long as the
24 emergency medical services officer remains employed in
25 covered employment by an employer which is currently
26 a participating public employer of this plan: *Provided,*
27 That any emergency medical services officer who does
28 not affirmatively elect to become a member of the plan
29 continues to be eligible for any other retirement system
30 as is from time to time offered to other county
31 employees but is ineligible for this plan regardless of
32 any subsequent termination of employment and rehire.

33 (c) Any emergency medical services officer who was
34 employed as an emergency medical services officer prior
35 to the effective date, but was not employed on the
36 effective date of this article, shall become a member
37 upon rehire as an emergency medical services officer.
38 For purposes of this section, the member's years of
39 service and credited service prior to the effective date
40 shall not be counted for any purposes under this plan
41 unless: (1) The emergency medical services officer has
42 not received the return of his or her accumulated
43 contributions in the Public Employees Retirement Fund
44 System pursuant to section thirty, article ten, chapter
45 five of this code; or (2) the accumulated contributions
46 returned to the member from the Public Employees

47 Retirement System have been repaid pursuant to this
48 article. If the conditions of subdivision (1) or (2) of this
49 subsection are met, all years of the emergency medical
50 services officer's covered employment shall be counted
51 as years of service for the purposes of this article.

52 (d) Any emergency medical services officer employed
53 in covered employment on the effective date of this
54 article who has timely elected to transfer into this plan
55 as provided in subsection (b) of this section shall be
56 given credited service at the time of transfer for all
57 credited service then standing to the emergency medical
58 services officer's service credit in the Public Employees
59 Retirement System regardless of whether the credited
60 service (as that term is defined in section two, article
61 ten, chapter five of this code) was earned as an
62 emergency medical services officer. All credited service
63 standing to the transferring emergency medical services
64 officer's credit in the Public Employees Retirement
65 System at the time of transfer into this plan shall be
66 transferred into the plan created by this article and the
67 transferring emergency medical services officer shall be
68 given the same credit for the purposes of this article for
69 all service transferred from the Public Employees
70 Retirement System as that transferring emergency
71 medical services officer would have received from the
72 Public Employees Retirement System as if the transfer
73 had not occurred. In connection with each transferring
74 emergency medical services officer receiving credit for
75 prior employment as provided in this subsection, a
76 transfer from the Public Employees Retirement System
77 to this plan shall be made pursuant to the procedures
78 described in this article: *Provided*, That any member of
79 this plan who has elected to transfer from the Public
80 Employees Retirement System into this plan pursuant

81 to subsection (b) of this section may not, after having
82 transferred into and becoming an active member of this
83 plan, reinstate to his or her credit in this plan any
84 service credit relating to periods in which the member
85 was not in covered employment as an emergency
86 medical services officer and which service was
87 withdrawn from the Public Employees Retirement
88 System prior to his or her elective transfer into this
89 plan.

90 (e) Once made, the election made under this section is
91 irrevocable. All emergency medical services officers
92 employed by an employer which is a participating
93 public employer of the Public Employees Retirement
94 System after the effective date and emergency medical
95 services officers electing to become members as
96 described in this section shall be members as a
97 condition of employment and shall make the
98 contributions required by this article.

99 (f) Notwithstanding any other provisions of this
100 article, any individual who is a leased employee is not
101 eligible to participate in the plan. For purposes of this
102 plan, a "leased employee" means any individual who
103 performs services as an independent contractor or
104 pursuant to an agreement with an employee leasing
105 organization or similar organization. If a question
106 arises regarding the status of an individual as a leased
107 employee, the board has final power to decide the
108 question.

§16-5V-8. Members' contributions; employer contributions.

1 There shall be deducted from the monthly salary of
2 each member and paid into the fund an amount equal to

3 eight and one-half percent of his or her monthly salary.
4 Any active member who has concurrent employment in
5 an additional job or jobs and the additional employment
6 requires the emergency medical services officer to be a
7 member of another retirement system which is
8 administered by the Consolidated Public Retirement
9 Board pursuant to article ten-d, chapter five of this code
10 shall contribute to the fund the sum of eight and
11 one-half percent of his or her monthly salary earned as
12 an emergency medical services officer as well as the sum
13 of eight and one-half percent of his or her monthly
14 salary earned from any additional employment which
15 additional employment requires the emergency medical
16 services officer to be a member of another retirement
17 system which is administered by the Consolidated
18 Public Retirement Board pursuant to article ten-d,
19 chapter five of this code. An additional ten and
20 one-half percent of the monthly salary of each member
21 shall be paid to the fund by the concurrent employer by
22 which the member is employed. All required deposits
23 shall be remitted to the board no later than fifteen days
24 following the end of the calendar month for which the
25 deposits are required. If the board upon the
26 recommendation of the board actuary finds that the
27 benefits provided by this article can be actuarially
28 funded with a lesser contribution, then the board shall
29 reduce the required member and employer
30 contributions proportionally. Any county commission
31 or political subdivision which fails to make any
32 payment due the Emergency Medical Services
33 Retirement Fund by the fifteenth day following the end
34 of each calendar month in which contributions are due
35 may be required to pay the actuarial rate of interest lost
36 on the total amount owed for each day the payment is
37 delinquent. Accrual of the loss of earnings owed by the

38 delinquent county commission or political subdivision
39 commences after the fifteenth day following the end of
40 the calendar month in which contributions are due and
41 continues until receipt of the delinquent amount.
42 Interest compounds daily and the minimum surcharge
43 is fifty dollars.

§16-5V-9. Transfer from Public Employees Retirement System.

1 (a) The Consolidated Retirement Board shall, within
2 one hundred eighty days of the effective date of the
3 transfer of an emergency medical services officer from
4 the Public Employees Retirement System to the plan,
5 transfer assets from the Public Employees Retirement
6 System Trust Fund into the West Virginia Emergency
7 Medical Services Trust Fund.

8 (b) The amount of assets to be transferred for each
9 transferring emergency medical services officer shall be
10 computed as of the first day of January, two thousand
11 eight, using the first day of July, two thousand seven,
12 actuarial valuation of the Public Employees Retirement
13 System, and updated with seven and one-half percent
14 annual interest to the date of the actual asset transfer.
15 The market value of the assets of the transferring
16 emergency medical services officer in the Public
17 Employees Retirement System shall be determined as of
18 the end of the month preceding the actual transfer. To
19 determine the computation of the asset share to be
20 transferred the board shall:

21 (1) Compute the market value of the Public Employees
22 Retirement System assets as of the first day of July, two
23 thousand seven, actuarial valuation date, under the
24 actuarial valuation approved by the board;

25 (2) Compute the actuarial accrued liabilities for all
26 Public Employees Retirement System retirees,
27 beneficiaries, disabled retirees and terminated inactive
28 members as of the first day of July, two thousand seven,
29 actuarial valuation date;

30 (3) Compute the market value of active member assets
31 in the Public Employees Retirement System as of the
32 first day of July, two thousand seven, by reducing the
33 assets value under subdivision one by the inactive
34 liabilities under subdivision (2) of this subsection;

35 (4) Compute the actuarial accrued liability for all
36 active Public Employees Retirement System members as
37 of the first day of July, two thousand seven, actuarial
38 valuation date approved by the board;

39 (5) Compute the funded percentage of the active
40 members' actuarial accrued liabilities under the Public
41 Employees Retirement System as of the first day of July,
42 two thousand seven, by dividing the active members'
43 market value of assets under subdivision three by the
44 active members' actuarial accrued liabilities under
45 subdivision (4) of this subsection;

46 (6) Compute the actuarial accrued liabilities under the
47 Public Employees Retirement System as of the first day
48 of July, two thousand seven, for active emergency
49 medical services officers transferring to the Emergency
50 Medical Services Retirement System;

51 (7) Determine the assets to be transferred from the
52 Public Employees Retirement System to the Emergency
53 Medical Services Retirement System by multiplying the
54 active members' funded percentage determined under

55 subdivision (5) of this subsection by the transferring
56 active members' actuarial accrued liabilities under the
57 Public Employees Retirement System under subdivision
58 (6) of this subsection and adjusting the asset transfer
59 amount by interest at seven and five-tenths percent for
60 the period from the calculation date of the first day of
61 July, two thousand seven, through the first day of the
62 month in which the asset transfer is to be completed.

63 (c) Once an emergency medical services officer has
64 elected to transfer from the Public Employees
65 Retirement System, transfer of that amount as
66 calculated in accordance with the provisions of
67 subsection (b) of this section by the Public Employees
68 Retirement System shall operate as a complete bar to
69 any further liability to the Public Employees Retirement
70 System and constitutes an agreement whereby the
71 transferring emergency medical services officer forever
72 indemnifies and holds harmless the Public Employees
73 Retirement System from providing him or her any form
74 of retirement benefit whatsoever until that emergency
75 medical services officer obtains other employment
76 which would make him or her eligible to reenter the
77 Public Employees Retirement System with no credit
78 whatsoever for the amounts transferred to the
79 Emergency Medical Services Retirement System.

80 (d) Eligible emergency medical services officers that
81 transfer from plans other than the Public Employees
82 Retirement System shall have service recognized under
83 this plan through the purchase of the service through
84 payment by the member of sixty percent of the actuarial
85 accrued liabilities which would result if the service is
86 credited under the Emergency Medical Services
87 Retirement System subject to the following:

88 (1) The service may be purchased in one year
89 increments of eligible service or for the total period of
90 eligible service;

91 (2) Payment must begin within twelve months of the
92 effective date of this article;

93 (3) Payment must be made in either a one-time lump
94 sum payment received by the board no later than the
95 thirty-first day of December, two thousand eight, or in
96 regular installment payments payable over sixty months
97 with the initial installment received by the board on or
98 before the thirty-first day of December, two thousand
99 eight;

100 (4) The rate of interest applicable to regular
101 installment payments for the purchase of service shall
102 be the actuarial interest rate assumption as approved by
103 the board for completing the actuarial valuation for the
104 plan year immediately preceding the first day of the
105 plan year in which the service purchase is made,
106 compounded per annum;

107 (5) Once payments commence, selection of the period
108 of service being purchased may not be amended; and

109 (6) Service will be credited only upon receipt by the
110 board of all payments due.

§16-5V-14. Direct rollovers.

1 This section applies to distributions made on or after
2 the first day of January, one thousand nine hundred
3 ninety-three. Notwithstanding any provision of this
4 article to the contrary that would otherwise limit a

5 distributee's election under this plan, a distributee may
6 elect, at the time and in the manner prescribed by the
7 board, to have any portion of an eligible rollover
8 distribution paid directly to an eligible retirement plan
9 specified by the distributee in a direct rollover. For
10 purposes of this section, the following definitions apply:

11 (1) "Eligible rollover distribution" means any
12 distribution of all or any portion of the balance to the
13 credit of the distributee, except that an eligible rollover
14 distribution does not include any of the following: (A)
15 Any distribution that is one of a series of substantially
16 equal periodic payments not less frequently than
17 annually made for the life or life expectancy of the
18 distributee or the joint lives or the joint life
19 expectancies of the distributee and the distributee's
20 designated beneficiary, or for a specified period of ten
21 years or more; (B) any distribution to the extent the
22 distribution is required under Section 401(a)(9) of the
23 Internal Revenue Code; (C) the portion of any
24 distribution that is not includable in gross income
25 determined without regard to the exclusion for net
26 unrealized appreciation with respect to employer
27 securities; and (D) any hardship distribution described
28 in Section 401(k) (2) (B) (i) (iv) of the Internal Revenue
29 Code.

30 (2) "Eligible retirement plan" means an individual
31 retirement account described in Section 408(a) of the
32 Internal Revenue Code, an individual retirement
33 annuity described in Section 408(b) of the Internal
34 Revenue Code, an annuity plan described in Section
35 403(a) of the Internal Revenue Code or a qualified plan
36 described in Section 401(a) of the Internal Revenue
37 Code that accepts the distributee's eligible rollover

38 distribution: *Provided*, That in the case of an eligible
39 rollover distribution to the surviving spouse, an eligible
40 retirement plan is an individual retirement account or
41 individual retirement annuity.

42 (3) "Distributee" means an employee or former
43 employee. In addition, the employee's or former
44 employee's surviving spouse and the employee's or
45 former employee's spouse or former spouse who is the
46 alternate payee under a qualified domestic relations
47 order, as defined in Section 414(p) of the Internal
48 Revenue Code with respect to governmental plans, are
49 distributees with regard to the interest of the spouse or
50 former spouse.

51 (4) "Direct rollover" means a payment by the plan to
52 the eligible retirement plan.

**§16-5V-18. Refunds to certain members upon discharge or
resignation; deferred retirement; forfeitures.**

1 (a) Any member who terminates covered employment
2 and is not

3 eligible to receive disability benefits under this article
4 is, by written request filed with the board, entitled to
5 receive from the fund the member's accumulated
6 contributions. Except as provided in subsection (b) of
7 this section, upon withdrawal, the member shall forfeit
8 his or her accrued benefit and cease to be a member.

9 (b) Any member who ceases employment in covered
10 employment and active participation in this plan and
11 who thereafter becomes reemployed in covered
12 employment may not receive any credited service for

13 any prior withdrawn accumulated contributions from
14 either this plan or the Public Employees Retirement
15 System unless following his or her return to covered
16 employment and active participation in this plan, the
17 member redeposits in the fund the amount of the
18 accumulated contributions withdrawn from previous
19 covered employment, together with interest on the
20 accumulated contributions at the rate determined by the
21 board from the date of withdrawal to the date of
22 redeposit. Upon repayment he or she shall receive the
23 same credit on account of his or her former covered
24 employment as if no refund had been made.

25 The repayment authorized by this subsection shall be
26 made in a lump sum within sixty months of the
27 emergency medical services officer's reemployment in
28 covered employment or, if later, within sixty months of
29 the effective date of this article.

30 (c) A member of this plan who has elected to transfer
31 from the Public Employees Retirement System into this
32 plan pursuant to subsection (b), section six of this
33 article may not, after having transferred into and
34 become an active member of this plan, reinstate to his or
35 her credit in this plan any service credit relating to
36 periods of nonemergency medical services officer service
37 withdrawn from the Public Employees Retirement
38 System prior to his or her elective transfer into this
39 plan.

40 (d) Every member who completes sixty months of
41 covered employment is eligible, upon cessation of
42 covered employment, to either withdraw his or her
43 accumulated contributions in accordance with this
44 section or to choose not to withdraw his or her

45 accumulated contribution and to receive retirement
46 income payments upon attaining early or normal
47 retirement age.

48 (e) Notwithstanding any other provision of this article,
49 forfeitures under the plan may not be applied to
50 increase the benefits any member would otherwise
51 receive under the plan.

§16-5V-19. Awards and benefits for disability — Duty related.

1 (a) Any member who after the effective date of this
2 article and during covered employment: (1) Has been or
3 becomes totally disabled by injury, illness or disease;
4 and (2) the disability is a result of an occupational risk
5 or hazard inherent in or peculiar to the services
6 required of members; or (3) the disability was incurred
7 while performing emergency medical services functions
8 during either scheduled work hours or at any other
9 time; and (4) in the opinion of two physicians after
10 medical examination, one of whom shall be named by
11 the board, the member is by reason of the disability
12 unable to perform adequately the duties required of an
13 emergency medical services officer, is entitled to receive
14 and shall be paid from the fund in monthly installments
15 during the lifetime of the member or, if sooner, until the
16 member attains normal retirement age or until the
17 disability sooner terminates, the compensation under
18 this section.

19 (b) If the member is totally disabled, the member shall
20 receive ninety percent of his or her average full monthly
21 compensation for the twelve-month period preceding
22 the member's disability or the shorter period if the
23 member has not worked twelve months.

24 (c) If the member remains totally disabled until
25 attaining sixty-five years of age, the member shall then
26 receive the retirement benefit provided in sections
27 sixteen and seventeen of this article.

**§16-5V-25. Additional death benefits and scholarships —
Dependent children.**

1 (a) In addition to the spouse death benefits in this
2 article, the surviving spouse is entitled to receive and
3 there shall be paid to the spouse one hundred dollars
4 monthly for each dependent child.

5 (b) If the surviving spouse dies or if there is no
6 surviving spouse, the fund shall pay monthly to each
7 dependent child a sum equal to one hundred percent of
8 the spouse's entitlement under this article divided by
9 the number of dependant children. If there is neither a
10 surviving spouse nor a dependent child, the fund shall
11 pay in equal monthly installments to the dependent
12 parents of the deceased member during their joint
13 lifetimes a sum equal to the amount which a surviving
14 spouse, without children, would have received:
15 *Provided*, That when there is only one dependent parent
16 surviving, that parent is entitled to receive during his or
17 her lifetime one-half the amount which both parents, if
18 living, would have been entitled to receive: *Provided*,
19 *however*, That if there is no surviving spouse, dependent
20 child or dependent parent of the deceased member, the
21 accumulated contributions shall be paid to a named
22 beneficiary or beneficiaries: *Provided further*, That if
23 there is no surviving spouse, dependent child or
24 dependent parent of the deceased member, or any
25 named beneficiary or beneficiaries, then the
26 accumulated contributions shall be paid to the estate of

27 the deceased member.

28 (c) Any person qualifying as a dependent child under
29 this section, in addition to any other benefits due under
30 this or other sections of this article, is entitled to receive
31 a scholarship to be applied to the career development
32 education of that person. This sum, up to but not
33 exceeding six thousand dollars per year, shall be paid
34 from the fund to any university or college in this state or
35 to any trade or vocational school or other entity in this
36 State approved by the board to offset the expenses of
37 tuition, room and board, books, fees or other costs
38 incurred in a course of study at any of these institutions
39 so long as the recipient makes application to the board
40 on an approved form and under rules provided by the
41 board and maintains scholastic eligibility as defined by
42 the institution or the board. The board may propose
43 legislative rules for promulgation in accordance with
44 article three, chapter twenty-nine-a of this code which
45 define age requirements, physical and mental
46 requirements, scholastic eligibility, disbursement
47 methods, institutional qualifications and other
48 requirements as necessary and not inconsistent with this
49 section.

**§16-5V-32. Effective date; report to Joint Committee on
Government and Finance; special starting date
for benefits.**

1 (a) The provisions of this article become effective the
2 first day of January, two thousand eight: *Provided*, That
3 no payout of any benefits may be made to any person
4 prior to the first day of January, two thousand eleven:
5 *Provided, however*, That emergency medical services
6 officers who retire due to a duty disability pursuant to

7 this article may begin receiving the benefits at the rate
8 and in the amount specified in this article from this
9 fund after the thirtieth day of June, two thousand eight:
10 *Provided further*, That until the thirtieth day of June,
11 two thousand eight, those emergency medical services
12 officers who retire due to a duty disability pursuant to
13 this article may draw benefits from this fund at the rate
14 and in the amount set forth in section twenty-five,
15 article ten, chapter five of this code.

16 (b) During the 36-month period before the payout of
17 benefits begins, the Joint Committee on Government
18 and Finance shall cause an interim study or studies to
19 be conducted on the potential effects of the
20 implementation of this retirement system, including, but
21 not limited to, potential funding mechanisms to provide
22 health insurance coverage for retirees in the fifty to
23 fifty-five age group: *Provided*, That after the effective
24 date of this provision, the Director of the Public
25 Employees Insurance Agency shall propose a rule for
26 legislative approval in accordance with the provisions
27 of article three, chapter twenty-nine-a of this code
28 governing the funding of health insurance coverage for
29 retirees under the plan provided in this article who are
30 in the fifty to fifty-five year age group, which rule may
31 be filed as an emergency rule: *Provided, however*, That
32 any rule filed as an emergency rule pursuant to this
33 subsection shall be refiled at the earliest opportunity as
34 a legislative rule for review and promulgation in
35 accordance with the provisions of article three, chapter
36 twenty-nine-a of this code.

Enr. Com. Sub for S. B. No. 650] 30

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


.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this
the 27th Day of March, 2008.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2008

Time 10:05 AM