

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4848**

BY DELEGATES CAMPBELL AND PYLES

[Introduced February 11, 2020; Referred to the  
Committee on Pensions and Retirement then  
Finance]

1 A BILL to amend and reenact §15-2A-2 of the Code of West Virginia, 1931, as amended, relating  
 2 to retirement credit in the West Virginia State Police Retirement System for persons who  
 3 served as law-enforcement officers in other public or private positions before becoming a  
 4 member of the State Police.

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

**ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

**§15-2A-2. Definitions.**

1 As used in this article, unless the context clearly requires a different meaning:

2 (1) "Accumulated contributions" means the sum of all amounts deducted from base salary,  
 3 together with four percent interest compounded annually.

4 (2) "Active military duty" means full-time active duty with the armed forces of the United  
 5 States, namely, the United States Air Force, Army, Coast Guard, Marines or Navy; and service  
 6 with the National Guard or reserve military forces of any of the armed forces when the employee  
 7 has been called to active full-time duty. (3) "Actuarially equivalent" or "of equal actuarial value"  
 8 means a benefit of equal value computed upon the basis of the mortality table and interest rates  
 9 as set and adopted by the retirement board in accordance with the provisions of this article:

10 *Provided, That when used in the context of compliance with the federal maximum benefit*  
 11 *requirements of Section 415 of the Internal Revenue Code, "actuarially equivalent" shall be*  
 12 *computed using the mortality tables and interest rates required to comply with those requirements.*

13 (4) "Agency" means the West Virginia State Police.

14 (5) "Base salary" means compensation paid to an employee without regard to any  
 15 overtime pay.

16 (6) "Beneficiary" means a surviving spouse or other surviving beneficiary who is entitled  
 17 to, or will be entitled to, an annuity or other benefit payable by the fund.

18 (7) "Board" means the Consolidated Public Retirement Board created pursuant to article  
 19 ten-d, chapter five of this code.

20 (8) "Dependent child" means any unmarried child or children born to or adopted by a  
21 member or retirant of the fund who:

22 (A) Is under the age of 18;

23 (B) After reaching 18 years of age, continues as a full-time student in an accredited high  
24 school, college, university or business or trade school until the child or children reaches the age  
25 of 23 years; or

26 (C) Is financially dependent on the member or retirant by virtue of a permanent mental or  
27 physical disability upon evidence satisfactory to the board.

28 (9) "Dependent parent" means the member's or retirant's parent or stepparent claimed as  
29 a dependent by the member or retirant for federal income tax purposes at the time of the  
30 member's or retirant's death.

31 (10) "Employee" means any person regularly employed in the service of the agency as a  
32 law-enforcement officer after March 12, 1994, and who is eligible to participate in the fund.

33 (11) "Final average salary" means the average of the highest annual compensation  
34 received for employment with the agency, including compensation paid for overtime service,  
35 received by the employee during any five calendar years within the employee's last 10 years of  
36 service: *Provided*, That annual compensation for determining benefits during any determination  
37 period may not exceed the maximum compensation allowed as adjusted for cost of living in  
38 accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

39 (12) "Fund", "plan", "system" or "retirement system" means the West Virginia State Police  
40 Retirement Fund created and established by this article.

41 (13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

42 (14) "Law-enforcement officer" means an individual employed or otherwise engaged in  
43 either a public or private position which involves the rendition of services relating to enforcement  
44 of federal, state or local laws for the protection of public or private safety, including, but not limited  
45 to, positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers, state

46 correctional officers, or any other law-enforcement position which requires certification, but  
47 excluding positions held by elected sheriffs or appointed chiefs of police whose duties are purely  
48 administrative in nature.

49 (15) "Member" means any person who has contributions standing to his or her credit in  
50 the fund and who has not yet entered into retirement status.

51 (16) "Month of service" means each month for which an employee is paid or entitled to  
52 payment for at least one hour of service for which contributions were remitted to the fund. These  
53 months shall be credited to the member for the calendar year in which the duties are performed.

54 (17) "Partially disabled" means an employee's inability, on a probable permanent basis, to  
55 perform the essential duties of a law-enforcement officer by reason of any medically determinable  
56 physical or mental impairment which has lasted or can be expected to last for a continuous period  
57 of not less than twelve months, but which impairment does not preclude the employee from  
58 engaging in other types of nonlaw-enforcement employment.

59 (18) "Physical or mental impairment" means an impairment that results from an  
60 anatomical, physiological, or psychological abnormality that is demonstrated by medically  
61 accepted clinical and laboratory diagnostic techniques.

62 (19) "Plan year" means the twelve-month period commencing on July 1 of any designated  
63 year and ending the following June 30.

64 (20) "Qualified public safety employee" means any employee of a participating state or  
65 political subdivision who provides police protection, fire fighting services or emergency medical  
66 services for any area within the jurisdiction of the state or political subdivision, or such other  
67 meaning given to the term by Section 72(t)(10)(B) of the Internal Revenue Code or by Treasury  
68 Regulation §1.401(a)-1(b)(2)(v) as they may be amended from time to time.

69 (21) "Required beginning date" means April 1 of the calendar year following the later of:  
70 (a) The calendar year in which the member attains age seventy and one-half years; or (b) the  
71 calendar year in which he or she retires or otherwise separates from service with the agency after

72 having attained the age of seventy and one-half years.

73 (22) "Retirant" or "retiree" means any member who commences an annuity payable by the  
74 retirement system.

75 (23) "Salary" means the compensation of an employee, excluding any overtime payments.

76 (24) "Surviving spouse" means the person to whom the member or retirant was legally  
77 married at the time of the member's or retirant's death and who survived the member or retirant.

78 (25) "Totally disabled" means an employee's probable permanent inability to engage in  
79 substantial gainful activity by reason of any medically determined physical or mental impairment  
80 that can be expected to result in death or that has lasted or can be expected to last for a  
81 continuous period of not less than twelve months. For purposes of this subdivision, an employee  
82 is totally disabled only if his or her physical or mental impairments are so severe that he or she is  
83 not only unable to perform his or her previous work as an employee of the agency, but also cannot,  
84 considering his or her age, education and work experience, engage in any other kind of substantial  
85 gainful employment which exists in the state regardless of whether: (A) The work exists in the  
86 immediate area in which the employee lives; (B) a specific job vacancy exists; or (C) the employee  
87 would be hired if he or she applied for work.

88 (26) "Years of service" means the months of service acquired by a member while in active  
89 employment with the agency divided by 12. Years of service shall be calculated in years and  
90 fraction of a year from the date of active employment of the member with the agency through the  
91 date of termination of employment or retirement from the agency. If a member returns to active  
92 employment with the agency following a previous termination of employment with the agency and  
93 the member has not received a refund of contributions plus interest for the previous employment  
94 under §15-2A-8 of this code, service shall be calculated separately for each period of continuous  
95 employment and years of service shall be the total service for all periods of employment. Years  
96 of service shall exclude any periods of employment with the agency for which a refund of  
97 contributions plus interest has been paid to the member unless the employee repays the previous

98 withdrawal, as provided in §15-2A-8 of this code, to reinstate the years of service. For law-  
99 enforcement officers who become members and officers of the state police after serving in any  
100 other law-enforcement position, years of service for the time spent in those other law-enforcement  
101 positions shall be calculated as one half of the years of continuous employment served in those  
102 other law-enforcement positions.

NOTE: The purpose of this bill is to permit retirement credit in the West Virginia State Police Retirement System for persons who served as law-enforcement officers in other public or private positions before becoming a member of the State Police. The credit is calculated at one-half for each year served in other law-enforcement positions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.