

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2026**

By Delegates Clark, Horst, Honaker, Barnhart, Worrell

and Espinosa

[Originating in the Committee on Finance;

February 22, 2023]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
2 sections, designated §8-22A-33a, relating to additional opportunity for municipal police  
3 officers or firefighters to transfer into the Municipal Police Officers and Firefighters  
4 Retirement System; providing for transfer of assets pertaining to municipal police officers  
5 or firefighters; requiring certain computations to be made by the Consolidated Public  
6 Retirement Board; requiring certain payments; and terminating liability of the Public  
7 Employees Retirement System.

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

**ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND  
FIREFIGHTERS RETIREMENT SYSTEM.**

**§8-22A-33a. Second special authorization for municipal police or firefighters hired after  
July 1, 2015.**

1 (a) Notwithstanding any provision of this code to the contrary, any municipality or  
2 municipal subdivision that employs individuals as members of paid police departments or paid fire  
3 departments and whose current police officers or firefighters are participating in the Public  
4 Employees Retirement System may elect, as provided in same manner as provided in §8-22A-28  
5 of this code, to become a participating public employer in the plan and thereby include its police  
6 officers and firefighters in the membership of the plan subject to the restrictions provided in this  
7 section.

8 (b) The municipality or municipal subdivision may elect to include only police officers or  
9 firefighters who have been hired on or after July 1, 2015, to become members of the plan. Police  
10 officers or firefighters hired before July 1, 2015, will remain members of the Public Employees  
11 Retirement System.

12 (c) The municipality or municipal subdivision must make its election on or prior to July 1,  
13 2025.

14           (d) Once a municipality or municipal subdivision makes its election to become a  
15 participating public employer pursuant to this section, all police officers or firefighters hired by the  
16 municipality or municipal subdivision after the date of election shall be members of the plan:  
17 *Provided, That police officers or firefighters hired by the municipality or municipal subdivision on or*  
18 *after July 1, 2015, who are members of the Public Employees Retirement System, may choose to*  
19 *become a member of the plan by notifying the municipality or municipal subdivision on a form*  
20 *provided by the Consolidated Public Retirement Board: *Provided, however, That he or she make**  
21 *this decision within ninety days of the municipality or municipal subdivision's decision to*  
22 *participate in the plan. A municipality or municipal subdivision making an election to become a*  
23 *participating public employer pursuant to this section that has hired any police officer or firefighter*  
24 *on or after July 1, 2015, shall notify each police officer or firefighter hired on or after July 1, 2015, of*  
25 *its election to become a participating public employer within thirty days of making the election.*  
26 *This notice shall include instructions as to how a police officer or firefighter may make notification*  
27 *to the municipality or municipal subdivision of his or her decision to become a member in the plan.*  
28 *The municipality or municipal subdivision shall notify the Consolidated Public Retirement Board in*  
29 *writing of any police officer or firefighter hired after July 1, 2015, who has decided to become a*  
30 *member of the plan and terminate his or her membership in the Public Employees Retirement*  
31 *System within thirty days of notification by the police officer or firefighter on forms provided by the*  
32 *Consolidated Public Retirement System.*

33           (e) Notwithstanding any other provision of the code to the contrary, any police officer or  
34 firefighter hired by a participating public employer on or after July 1, 2015, who chooses pursuant  
35 to this section to be a member of the plan, shall be a member of the plan upon acceptance by the  
36 Consolidated Public Retirement Board of the notification by the municipality required by this  
37 section.

38           (1) The Consolidated Public Retirement Board shall transfer assets and service credit  
39 earned on or after July 1, 2015, from the Public Employees Retirement System Trust Fund into the

40 West Virginia Municipal Police Officers and Firefighters Retirement Fund for those police officers  
41 or firefighters who elect to be a member of the plan and were members in the Public Employees  
42 Retirement System no later than sixty days from receipt of notification by the municipality or  
43 municipal subdivision of the police officer or firefighter's election to become a member. The  
44 amount of service credit recognized by the plan for the transferring employees shall be the service  
45 credit transferred and recognized by the Public Employees Retirement System.

46 (2) The amount of assets to be transferred for each police officer or firefighter shall be  
47 computed as of the actuarial valuation date preceding the notification to the Consolidated Public  
48 Retirement Board by the municipality or municipal subdivision of the police officer or firefighter's  
49 election to become a member and updated with seven and one-half percent annual interest to the  
50 date of the actual asset transfer. For purposes of this section, the actuarial valuation date is the  
51 most recent actuarial valuation of the Public Employees Retirement System approved by the  
52 Consolidated Public Retirement Board. The market value of the assets of the transferring  
53 employees in the Public Employees Retirement System shall be determined as of the end of the  
54 month preceding the actual transfer. To determine the computation of the asset share to be  
55 transferred, the Consolidated Public Retirement Board shall:

56 (A) Compute the market value of the Public Employees Retirement System assets using  
57 the actuarial valuation date;

58 (B) Compute the actuarial accrued liabilities for all Public Employees Retirement System  
59 retirees, beneficiaries, disabled retirees and terminated inactive members using the actuarial  
60 valuation date;

61 (C) Compute the market value of active member assets in the Public Retirement System  
62 as of the actuarial valuation date by reducing the assets value under paragraph (A) of this  
63 subdivision by the inactive liabilities under paragraph (B) of this subdivision;

64 (D) Compute the actuarial accrued liability for all active Public Employees Retirement  
65 System members using the actuarial valuation date immediately preceding the computation date;

66           (E) Compute the funded percentage of the active members' actuarial accrued liabilities  
67 under the Public Employees Retirement System as of the actuarial valuation date by dividing the  
68 active members' market value of assets under paragraph (C) of this subdivision by the active  
69 members' actuarial accrued liabilities under paragraph (D) of this subsection;

70           (F) Compute the actuarial accrued liabilities under the Public Employees Retirement  
71 System as of the actuarial valuation date for active employees transferring to the plan;

72           (G) Determine the assets to be transferred from the Public Employees Retirement System  
73 to the plan by multiplying the active members' funded percentage determined under paragraph (E)  
74 of this subdivision by the transferring active members' actuarial accrued liabilities under the Public  
75 Employees Retirement System under paragraph (F) of this subdivision and adjusting the asset  
76 transfer amount by interest at seven and five-tenths percent for the period from the calculation  
77 date of July 1 through the first day of the month in which the asset transfer is to be completed.

78           (3) Any police officer or firefighter who elects to become a member of the plan must also  
79 pay to the plan a four percent contribution no later than June 30, 2027. The contribution shall be  
80 calculated as four percent of the member's total earnings for which assets are transferred, plus  
81 interest of seven and one-half percent accumulated from the date of the police officer's or  
82 firefighter's initial participation in the Public Employees Retirement System through the calculation  
83 date. Installment payments may be made over no more than a twenty-four month period plus  
84 seven and one-half percent interest shall accrue on the outstanding balance due from the  
85 calculation date until paid in full.

86           (4) Once an employee transfers from the Public Employees Retirement System to the  
87 plan, the Public Employees Retirement System shall bar any further liability and said transfer will  
88 constitute an agreement whereby the transferring employee forever indemnifies and holds  
89 harmless the Public Employees Retirement System from providing him or her any form of  
90 retirement benefit whatsoever until that employee obtains other employment which would make

- 91 him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever
- 92 for the amounts transferred to the plan.