

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 570**

By Senators Stover, Hamilton, Deeds, and Woodrum

[Introduced February 06, 2023; referred  
to the Committee on Pensions; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §20-18-5 and §20-18-6 of the Code of West Virginia, 1931, as  
 2 amended, all relating to Natural Resources Police Officer Retirement; providing for  
 3 supplemental funding of the West Virginia Natural Resources Police Officer Retirement  
 4 System; and providing for additional recruitment and retention opportunities of Natural  
 5 Resources Police Officers.

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

**ARTICLE 18. WEST VIRGINIA DIVISION OF NATURAL RESOURCES POLICE  
 OFFICER RETIREMENT SYSTEM.**

**§20-18-5. Article to be liberally construed; supplements federal social security; federal  
 qualification requirements.**

1 (a) The provisions of this article shall be liberally construed to provide a general retirement  
 2 system for Natural Resources Police Officers eligible to retire under the provisions of this plan.  
 3 Nothing in this article may be construed to permit the state to substitute this plan for federal social  
 4 security now in force in West Virginia.

5 (b) The board shall administer the plan in accordance with its terms and may construe the  
 6 terms and determine all questions arising in connection with the administration, interpretation and  
 7 application of the plan. The board may sue and be sued, contract and be contracted with and  
 8 conduct all the business of the system in the name of the plan. The board may employ those  
 9 persons it considers necessary or desirable to administer the plan. All start-up costs to modify the  
 10 existing line of business computer system and all personnel salary, including benefits, shall be  
 11 paid by the board from funds received by the board through gifts and bequests to the fund and any  
 12 accretions and accumulations which may properly be paid into and become a part of the fund. The  
 13 board may receive gifts and bequests for purposes of paying start-up costs as set forth in this  
 14 subsection. The board may also receive gifts and additional contributions for the purpose of  
 15 supplementing the plan. The board shall administer the plan for the exclusive benefit of the

16 members and their beneficiaries subject to the specific provisions of the plan.

17 (c) The plan is intended to meet the federal qualification requirements of Section 401(a)  
18 and related sections of the Internal Revenue Code as applicable to governmental plans.  
19 Notwithstanding any other provision of state law, the board shall administer the plan to fulfill this  
20 intent for the exclusive benefit of the members and their beneficiaries. Any provision of this article  
21 referencing or relating to these federal qualification requirements shall be effective as of the date  
22 required by federal law. The board may promulgate rules and amend or repeal conflicting rules in  
23 accordance with the authority granted to the board pursuant to §5-10D-1 of this code to assure  
24 compliance with the requirements of this section.

**§20-18-6. Members.**

1 (a) Any Natural Resources Police Officer first employed in covered employment after the  
2 effective date of this article shall be a member of this retirement system and does not qualify for  
3 membership in any other retirement system administered by the board, so long as he or she  
4 remains employed in covered employment: *Provided*, That any Natural Resources Police Officer  
5 who has concurrent employment in an additional job or jobs which would require the Natural  
6 Resources Police Officer to be a member of the West Virginia Deputy Sheriff Retirement System,  
7 West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia  
8 Emergency Medical Services Retirement System shall participate in only one retirement system  
9 administered by the board, and the retirement system applicable to the concurrent employment for  
10 which the employee has the earliest date of hire shall prevail. The membership of any person in  
11 the plan ceases: (1) Upon the withdrawal of accumulated contributions after the cessation of  
12 service; (2) upon retirement; or (3) at death.

13 (b) Any Natural Resources Police Officer employed in covered employment on July 1,  
14 2020, shall notify in writing both the Division of Natural Resources and the board no later than  
15 September 30, 2020, of his or her desire to become a member of the plan beginning January 2,  
16 2021: *Provided*, That any Natural Resources Police Officer hired after July 1, 2020, but before

17 January 2, 2021, shall make this required notification to the division and the board no later than 30  
18 days from receipt of the notice required by §20-18-11 of this code or September 30, 2020,  
19 whichever is later. Any Natural Resources Police Officer who elects to become a member of the  
20 plan ceases to be an active member in the Public Employees Retirement System and shall  
21 continue to be ineligible for future membership in any other retirement system administered by the  
22 board so long as the Natural Resources Police Officer remains employed in covered employment  
23 in this plan; any Natural Resources Police Officer who does not affirmatively elect to become a  
24 member of the plan continues to be eligible for any other retirement system as is from time to time  
25 offered to other state employees but is ineligible for this plan regardless of any subsequent  
26 termination of employment and rehire.

27 (c) Any Natural Resources Police Officer employed in covered employment on the  
28 effective date of this article, who has timely elected to transfer into this plan as provided in  
29 subsection (b) of this section, shall be given credited service at the time of transfer for all credited  
30 service then standing to the Natural Resources Police Officer service credit in the Public  
31 Employees Retirement System regardless of whether the credited service (as that term is defined  
32 in §5-10-2 of this code) was earned as a Natural Resources Police Officer. All the credited service  
33 standing to the transferring Natural Resources Police Officer's credit in the Public Employees  
34 Retirement Fund System at the time of transfer into this plan shall be transferred into the plan  
35 created by this article, and the transferring Natural Resources Police Officer shall be given the  
36 same credit for the purposes of this article for all service transferred from the Public Employees  
37 Retirement System, as that transferring Natural Resources Police Officer would have received  
38 from the Public Employees Retirement System as if the transfer had not occurred. In connection  
39 with each transferring Natural Resources Police Officer receiving credit for prior employment as  
40 provided in this subsection, a transfer from the Public Employees Retirement System to this plan  
41 shall be made pursuant to the procedures described in §20-18-10 of this code: *Provided*, That a  
42 member of this plan who has elected to transfer from the Public Employees Retirement System

43 into this plan pursuant to subsection (b) of this section may not, after having transferred into and  
44 become an active member of this plan, reinstate to his or her credit in this plan any service credit  
45 relating to periods of non-Natural Resources Police Officer service which were withdrawn from the  
46 Public Employees Retirement System prior to his or her elective transfer into this plan.

47 (d) Any Natural Resources Police Officer who was employed as a Natural Resources  
48 Police Officer ~~prior to~~ between the effective date of this article and June 30, 2026, who but was not  
49 ~~employed as a Natural Resources Police Officer on the effective date of this article and~~ has not  
50 commenced retirement under the Public Employees Retirement System, shall become a member  
51 upon rehire as a Natural Resources Police Officer. For purposes of this subsection, the member's  
52 years of service and credited service prior to the effective date ~~shall~~ may not be counted for any  
53 purposes under this plan unless the Natural Resources Police Officer has not received the return  
54 of his or her accumulated contributions in the Public Employees Retirement System pursuant to  
55 §5-10-30 of this code. The member may request in writing within ~~one year~~ two years of first  
56 becoming a member of the plan to have his or her accumulated contributions and employer  
57 contributions from ~~covered employment~~ all credited service, as that term is defined in §5-10-2 of  
58 this code, in the Public Employees Retirement System transferred to the plan regardless of  
59 whether the credited service was earned as a Natural Resources Police Officer. If the conditions of  
60 the subsection are met, all years of the Natural Resources Police Officer's ~~covered employment~~  
61 credited service shall be counted as years of service for the purposes of this article.

62 (e) Any certified law-enforcement officer who has law-enforcement service with a  
63 participating public employer in the Public Employees Retirement System who is first employed in  
64 covered employment between the effective date of this article and June 30, 2026, and who has not  
65 commenced retirement under the Public Employees Retirement System, shall be a member of this  
66 retirement system. For purposes of this subsection, the member's years of service and credited  
67 service prior to the effective date may not be counted for any purposes under this plan unless the  
68 Natural Resources Police Officer has not received the return of his or her accumulated

69 contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The  
70 member may request in writing within two years of first becoming a member of the plan to have up  
71 to a maximum of three years of his or her accumulated contributions and employer contributions  
72 from credited service, as that term is defined in §5-10-2 of this code, earned while performing  
73 service as a certified law-enforcement officer in the Public Employees Retirement System  
74 transferred to the plan. If the member has more than three years of credited service as a certified  
75 law-enforcement officer in the Public Employees Retirement System, the accumulated  
76 contributions and employer contributions of the first 36 months of credited service with full salary  
77 as a certified law-enforcement officer shall be transferred. If the conditions of this subsection are  
78 met, the maximum three years of credited service in the Public Employees Retirement System as  
79 a certified law-enforcement officer shall be counted as years of service for the purposes of this  
80 article.

81 (f) Any Natural Resources Police Officer who was employed as a Natural Resources  
82 Police Officer prior to the effective date of this article and who was rehired as a Natural Resource  
83 Police Officer on or after July 1, 2026, and who has not commenced retirement under the Public  
84 Employees Retirement System, shall become a member upon rehire as a Natural Resources  
85 Police Officer. For purposes of this subsection, the member's years of service and credited service  
86 prior to the effective date may not be counted for any purposes under this plan unless the Natural  
87 Resources Police Officer has not received the return of his or her accumulated contributions in the  
88 Public Employees Retirement System pursuant to §5-10-30 of this code. The member may  
89 request in writing within one year of first becoming a member of the plan to have his or her  
90 accumulated contributions and employer contributions from covered employment in the Public  
91 Employees Retirement System transferred to the plan. If the conditions of this subsection are met,  
92 all years of the Natural Resources Police Officer's covered employment shall be counted as years  
93 of service for the purposes of this article.

94 (e) (g) Once made, the election provided in this section is irrevocable. All Natural

95 Resources Police Officers first employed after the effective date and Natural Resources Police  
96 Officers electing to become members as described in this section shall be members as a condition  
97 of employment and shall make the contributions required by §20-18-8 of this code.

98       ~~(f)~~ (h) Notwithstanding any other provisions of this article to the contrary, any individual who  
99 is a leased employee is not eligible to participate in the plan. For purposes of this plan, a "leased  
100 employee" means any individual who performs services as an independent contractor or pursuant  
101 to an agreement with an employee leasing organization or similar organization. If a question arises  
102 regarding the status of an individual as a leased employee, the board has final power to decide the  
103 question. Additionally, any individual who is an Emergency Natural Resources Police Officer as  
104 defined in §20-7-1(c) of this code, Special Natural Resources Police Officer as defined in §20-7-  
105 1(d) of this code, Forestry Special Natural Resources Police Officer as defined in §20-7-1(e) of this  
106 code, or Federal Law Enforcement Officer as defined in §20-7-1b of this code, is not eligible to  
107 participate in the plan.

NOTE: The purpose of this bill is to provide supplement funding for the Natural Resource  
Police Officer Retirement System plan and to increase recruitment and retention of certified  
officers for the agency.

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