

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 590**

By Senators Nelson, Plymale, Barrett, Roberts,

Deeds, and Woelfel

[Originating in the Committee on Pensions; reported

on February 16, 2023]

1 A BILL to amend and reenact §16-5V-2, §16-5V-6, and §16-5V-14a of the Code of West Virginia,  
2 1931, as amended; and to amend said code by adding thereto a two new sections,  
3 designated §16-5V-6c and §16-5V-6d, all relating to the Emergency Medical Services  
4 Retirement System; defining terms; updating terms to comply with federal laws;  
5 authorizing certain 911 personnel to be members of the Emergency Medical Services  
6 Retirement System (EMSRS) under certain circumstances; providing for transfer of assets  
7 pertaining to 911 personnel; requiring certain computations to be made by the  
8 Consolidated Public Retirement Board; requiring administrative costs of the Consolidated  
9 Public Retirement Board for transfer of assets pertaining to 911 personnel be borne by  
10 participating employers in relative proportion to members employed; and terminating  
11 liability of the Public Employees Retirement System (PERS); and providing for purchase of  
12 service time through payment.

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

**ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.**

**§16-5V-2.**

**Definitions.**

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

3 (a) "Accrued benefit" means on behalf of any member two and six\_10ths percent per year  
4 of the member's final average salary for the first 20 years of credited service. Additionally, two  
5 percent per year for 21 through 25 years and one and one-half percent per year for each year over  
6 25 years will be credited with a maximum benefit of 67 percent. A member's accrued benefit may  
7 not exceed the limits of ~~section~~ Section 415 of the Internal Revenue Code and is subject to the  
8 provisions of §16-5V-12 of this code.

9 (1) The board may, upon the recommendation of the board's actuary, increase the  
10 employees' contribution rate to 10 and five-tenths percent should the funding of the plan not reach  
11 70 percent funded by July 1, 2012. The board shall decrease the contribution rate to eight and one-

12 half percent once the plan funding reaches the 70 percent support objective as of any later  
13 actuarial valuation date.

14 (2) Upon reaching the 75 percent actuarial funded level, as of an actuarial valuation date,  
15 the board shall increase the two and six-tenths percent to two and three-quarter percent for the  
16 first 20 years of credited service. The maximum benefit will also be increased from 67 percent to  
17 90 percent.

18 (3) For 911 personnel with assets transferred pursuant to §16-5V-6d of this code, who did  
19 not elect to pay back higher past contributions with interest, "accrued benefit" means, on behalf of  
20 the member, two percent per year of the member's final average salary for all credited service that  
21 was credited as a result of transferred assets. Additionally, two and three-quarter percent for the  
22 first 20 years of new credited service earned from date of membership in this plan will be credited.  
23 Additionally, two percent per year for 21 through 25 years of new credited service earned from date  
24 of membership in this plan and one and one-half percent per year for each year over 25 years  
25 earned from date of membership in this plan will be credited with a maximum benefit of 90 percent.  
26 A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue  
27 Code and is subject to the provisions of §16-5V-12 of this code.

28 (4) For 911 personnel with assets transferred pursuant to section §16-5V-6d of this code,  
29 who did elect to pay back higher past contributions, with interest, for eligible 911 service credit,  
30 "accrued benefit" means on behalf of the member two percent per year of the member's final  
31 average salary for all non-911 credited service that was credited as a result of transferred assets.  
32 Additionally, two and three-quarter percent for the first 20 years of credited 911 service and all new  
33 service earned from date of membership in this plan will be credited. Additionally, two percent per  
34 year for 21 through 25 years of credited 911 service and all new service earned from date of  
35 membership in this plan and one and one-half percent per year for each year over 25 years of 911-  
36 eligible service and all new service earned from date of membership in this plan will be credited  
37 with a maximum benefit of 90 percent. A member's accrued benefit may not exceed the limits of

38 Section 415 of the Internal Revenue Code and is subject to the provisions of §16-5V-12 of this  
39 code.

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

43 (c) "Active military duty" means full-time active duty with any branch of the armed forces of  
44 the United States, including service with the National Guard or reserve military forces when the  
45 member has been called to active full-time duty and has received no compensation during the  
46 period of that duty from any board or employer other than the armed forces.

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

50 (e) "Annual compensation" means the wages paid to the member during covered  
51 employment within the meaning of ~~section~~ Section 3401(a) of the Internal Revenue Code, but  
52 determined without regard to any rules that limit the remuneration included in wages based upon  
53 the nature or location of employment or services performed during the plan year plus amounts  
54 excluded under ~~section~~ Section 414(h)(2) of the Internal Revenue Code and less reimbursements  
55 or other expense allowances, cash or noncash fringe benefits or both, deferred compensation and  
56 welfare benefits. Annual compensation for determining benefits during any determination period  
57 may not exceed the maximum compensation allowed as adjusted for cost of living in accordance  
58 with §5-10D-7 of this code and ~~section~~ Section 401(a)(17) of the Internal Revenue Code.

59 (f) "Annual leave service" means accrued annual leave.

60 (g) "Annuity starting date" means the first day of the month for which an annuity is payable  
61 after submission of a retirement application. For purposes of this subsection, if retirement income  
62 payments commence after the normal retirement age, "retirement" means the first day of the  
63 month following or coincident with the latter of the last day the member worked in covered

64 employment or the member's normal retirement age and after completing proper written  
65 application for retirement on an application supplied by the board.

66 (h) "Board" means the Consolidated Public Retirement Board.

67 (i) "Contributing service" or "contributory service" means service rendered by a member  
68 while employed by a participating public employer for which the member made contributions to the  
69 plan. Contributory service that was transferred in full from the Public Employees Retirement  
70 System will qualify as contributory service in this plan.

71 (j) "County commission or political subdivision" has the meaning ascribed to it in this code.

72 (k) "Covered employment" means either: (1) Employment as a full-time emergency  
73 medical technician, emergency medical technician/paramedic, or emergency medical  
74 services/registered nurse, and the active performance of the duties required of emergency  
75 medical services officers; or (2) employment as a full-time employee of a county 911 public safety  
76 answering point; or (3) employment as a full-time county firefighter; or (4) the period of time during  
77 which active duties are not performed but disability benefits are received under this article; or (3)  
78 (5) concurrent employment by an emergency medical services officer, 911 personnel, or county  
79 firefighter in a job or jobs in addition to his or her employment as an emergency medical services  
80 officer, 911 personnel, or county firefighter where the secondary employment requires the  
81 emergency medical services officer, 911 personnel, or county firefighter to be a member of another  
82 retirement system which is administered by the Consolidated Public Retirement Board pursuant to  
83 this code: *Provided*, That the emergency medical services officer, 911 personnel, or county  
84 firefighter contributes to the fund created in this article the amount specified as the member's  
85 contribution in §16-5V-8 of this code.

86 (l) "Credited service" means the sum of a member's years of service, active military duty,  
87 disability service, transferred service, and accrued annual and sick leave service.

88 (m) "Dependent child" means either:

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

90 (A) A natural child of the member;

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

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

94 (D) A stepchild of the member residing in the member's household at the time of the  
95 member's death; or

96 (2) Any unmarried child under age 23:

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

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

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

102 (n) "Dependent parent" means the father or mother of the member who was claimed as a  
103 dependent by the member for federal income tax purposes at the time of the member's death.

104 (o) "Disability service" means service received by a member, expressed in whole years,  
105 fractions thereof or both, equal to one half of the whole years, fractions thereof, or both, during  
106 which time a member receives disability benefits under this article.

107 (p) "Early retirement age" means age 45 or over and completion of 20 years of contributory  
108 service.

109 (q) "Effective date" means January 1, 2008.

110 (r) "Emergency medical services officer" means an individual employed by the state,  
111 county or other political subdivision as a medical professional who is qualified to respond to  
112 medical emergencies, aids the sick and injured and arranges or transports to medical facilities, as  
113 defined by the West Virginia Office of Emergency Medical Services. This definition is construed to  
114 include employed ambulance providers and other services such as law enforcement, rescue or  
115 fire department personnel who primarily perform these functions and are not provided any other

116 credited service benefits or retirement plans. These persons may hold the rank of emergency  
117 medical technician/basic, emergency medical technician/paramedic, emergency medical  
118 services/registered nurse, or others as defined by the West Virginia Office of Emergency Medical  
119 Services and the Consolidated Public Retirement Board.

120 (s) "Employer error" means an omission, misrepresentation, or deliberate act in violation of  
121 relevant provisions of the West Virginia Code, ~~or of the West Virginia Code of State Rules,~~ or the  
122 relevant provisions of both the West Virginia Code and of the West Virginia Code of State Rules by  
123 the participating public employer that has resulted in an underpayment or overpayment of  
124 contributions required.

125 (t) "Final average salary" means the average of the highest annual compensation received  
126 for covered employment by the member during any five consecutive plan years within the  
127 member's last 10 years of service while employed, prior to any disability payment. If the member  
128 did not have annual compensation for the five full plan years preceding the member's attainment  
129 of normal retirement age and during that period the member received disability benefits under this  
130 article, then "final average salary" means the average of the monthly salary determined paid to the  
131 member during that period as determined under §16-5V-19 of this code multiplied by 12. Final  
132 average salary does not include any lump sum payment for unused, accrued leave of any kind or  
133 character.

134 (u) "Full-time employment" means permanent employment of an employee by a  
135 participating public employer in a position which normally requires 12 months per year service and  
136 requires at least 1040 hours per year service in that position.

137 (v) "Fund" means the West Virginia Emergency Medical Services Retirement Fund created  
138 by this article.

139 (w) "Hour of service" means:

140 (1) Each hour for which a member is paid or entitled to payment for covered employment  
141 during which time active duties are performed. These hours shall be credited to the member for the

142 plan year in which the duties are performed; and

143 (2) Each hour for which a member is paid or entitled to payment for covered employment  
144 during a plan year, but where no duties are performed due to vacation, holiday, illness, incapacity  
145 including disability, layoff, jury duty, military duty, leave of absence, or any combination thereof and  
146 without regard to whether the employment relationship has terminated. Hours under this  
147 subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A  
148 member will not be credited with any hours of service for any period of time he or she is receiving  
149 benefits under §16-5V-19 or §16-5V-20 of this code; and

150 (3) Each hour for which back pay is either awarded or agreed to be paid by the employing  
151 county commission or political subdivision, irrespective of mitigation of damages. The same hours  
152 of service shall not be credited both under subdivision (1) or (2) of this subsection and under this  
153 subdivision. Hours under this paragraph shall be credited to the member for the plan year or years  
154 to which the award or agreement pertains, rather than the plan year in which the award,  
155 agreement or payment is made.

156 (x) "Medical examination" means an in-person or virtual examination of a member's  
157 physical or mental health, or both, by a physician or physicians selected or approved by the board;  
158 or, at the discretion of the board, a medical record review of the member's physical or mental  
159 health, or both, by a physician selected or approved by the board.

160 ~~(x)~~ (y) Member" means either: (1) a person first hired as an emergency medical services  
161 officer by an employer which is a participating public employer of the Public Employees  
162 Retirement System or the Emergency Medical Services Retirement System after the effective  
163 date of this article, as defined in subsection (q) of this section; or (2) an emergency medical  
164 services officer of an employer which is a participating public employer of the Public Employees  
165 Retirement System first hired prior to the effective date and who elects to become a member  
166 pursuant to this article; or (3) a person first hired by a county 911 public safety answering center  
167 after the participating public employer elects to participate in the Emergency Medical Services



168 Retirement System; or (4) a county firefighter hired on or after June 10, 2022; or (5) a county  
169 firefighter of an employer which is a participating public employer of the Public Employees  
170 Retirement System first hired prior to June 10, 2022, and who elects to become a member  
171 pursuant to §16-5V-6a of this code; or (6) a person first hired by a county 911 public safety  
172 answering center prior to July 1, 2022, and who elects to become a member pursuant to §16-5V-  
173 6c of this code. A member shall remain a member until the benefits to which he or she is entitled  
174 under this article are paid or forfeited.

175       ~~(y)~~ (z) "Monthly salary" means the W-2 reportable compensation received by a member  
176 during the month.

177       ~~(z)~~ (aa) "Normal form" means a monthly annuity which is one twelfth of the amount of the  
178 member's accrued benefit which is payable for the member's life. If the member dies before the  
179 sum of the payments he or she receives equals his or her accumulated contributions on the  
180 annuity starting date, the named beneficiary shall receive in one lump sum the difference between  
181 the accumulated contributions at the annuity starting date and the total of the retirement income  
182 payments made to the member.

183       ~~(aa)~~ (bb) "Normal retirement age" means the first to occur of the following:

184       (1) Attainment of age 50 years and the completion of 20 or more years of regular  
185 contributory service, excluding active military duty, disability service and accrued annual and sick  
186 leave service;

187       (2) While still in covered employment, attainment of at least age 50 years and when the  
188 sum of current age plus regular contributory years of service equals or exceeds 70 years;

189       (3) While still in covered employment, attainment of at least age 60 years and completion  
190 of 10 years of regular contributory service; or

191       (4) Attainment of age 62 years and completion of five or more years of regular contributory  
192 service.

193 ~~(bb)~~ (cc) "Participating public employer" means: (1) any county commission, or political  
194 subdivision, or county 911 public safety answering point in the state which has elected to cover its  
195 emergency medical services officers or 911 personnel, as defined in this article, under the West  
196 Virginia Emergency Medical Services Retirement System; or (2) any county commission who  
197 employs county firefighters.

198 ~~(ee)~~ (dd) "Plan" means the West Virginia Emergency Medical Services Retirement System  
199 established by this article.

200 ~~(dd)~~ (ee) "Plan year" means the 12-month period commencing on January 1 of any  
201 designated year and ending the following December 31.

202 ~~(ee)~~ (ff) "Political subdivision" means a county, city or town in the state; any separate  
203 corporation or instrumentality established by one or more counties, cities or towns, as permitted by  
204 law; any corporation or instrumentality supported in most part by counties, cities or towns; and any  
205 public corporation charged by law with the performance of a governmental function, and whose  
206 jurisdiction is coextensive with one or more counties, cities or towns: *Provided*, That any public  
207 corporation established under §7-15-4 of this code is considered a political subdivision solely for  
208 the purposes of this article.

209 ~~(ff)~~ (gg) "Public Employees Retirement System" means the West Virginia Public  
210 Employee's Retirement System created by West Virginia Code.

211 ~~(gg)~~ (hh) "Regular interest" means the rate or rates of interest per annum, compounded  
212 annually, as the board adopts in accordance with the provisions of this article.

213 ~~(hh)~~ (ii) "Required beginning date" means April 1 of the calendar year following the later of:  
214 (1) The calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72  
215 (if born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise  
216 separates from covered employment.

217 ~~(ii)~~ (jj) "Retirant" means any member who commences an annuity payable by the plan.

218 ~~(jj)~~ (kk) "Retire" or "retirement" means a member's withdrawal from the employ of a

219 participating public employer and the commencement of an annuity by the plan.

220 ~~(kk)~~ (ll) "Retirement income payments" means the monthly retirement income payments  
221 payable under the plan.

222 ~~(ll)~~ (mm) "Spouse" means the person to whom the member is legally married on the  
223 annuity starting date.

224 ~~(mm)~~ (nn) "Surviving spouse" means the person to whom the member was legally married  
225 at the time of the member's death and who survived the member.

226 ~~(nn)~~ (oo) "Totally disabled" means a member's inability to engage in substantial gainful  
227 activity by reason of any medically determined physical or mental impairment that can be expected  
228 to result in death or that has lasted or can be expected to last for a continuous period of not less  
229 than 12 months.

230 For purposes of this subsection:

231 (1) A member is totally disabled only if his or her physical or mental impairment or  
232 impairments is so severe that he or she is not only unable to perform his or her previous work as an  
233 emergency medical services officer, 911 personnel, or county firefighter but also cannot,  
234 considering his or her age, education and work experience, engage in any other kind of substantial  
235 gainful employment which exists in the state regardless of whether: (A) The work exists in the  
236 immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member  
237 would be hired if he or she applied for work. For purposes of this article, substantial gainful  
238 employment is the same definition as used by the United States Social Security Administration.

239 (2) "Physical or mental impairment" is an impairment that results from an anatomical,  
240 physiological, or psychological abnormality that is demonstrated by medically accepted clinical  
241 and laboratory diagnostic techniques. The board may require submission of a member's annual  
242 tax return for purposes of monitoring the earnings limitation.

243 ~~(oo)~~ (pp) "Year of service" means a member shall, except in his or her first and last years of  
244 covered employment, be credited with years of service credit based upon the hours of service

245 performed as covered employment and credited to the member during the plan year based upon  
 246 the following schedule:

Hours of Service	Years of Service Credited
Less than 500	0
500 to 999	1/3
1000 to 1499	2/3
1500 or more	1

247 During a member's first and last years of covered employment, the member shall be  
 248 credited with one twelfth of a year of service for each month during the plan year in which the  
 249 member is credited with an hour of service for which contributions were received by the fund. A  
 250 member is not entitled to credit for years of service for any time period during which he or she  
 251 received disability payments under §16-5V-19 or §16-5V-20 of this code. Except as specifically  
 252 excluded, years of service include covered employment prior to the effective date.

253 Years of service which are credited to a member prior to his or her receipt of accumulated  
 254 contributions upon termination of employment pursuant to §16-5V-18 of this code or §5-10-30 of  
 255 this code, shall be disregarded for all purposes under this plan unless the member repays the  
 256 accumulated contributions with interest pursuant to section §16-5V-18 of this code, or has prior to  
 257 the effective date, made the repayment pursuant to §5-10-18 of this code.

258 (qq) "911 personnel" means an individual employed in full-time employment with a county  
 259 911 public safety answering point.

**§16-5V-6. Members.**

1 (a) Any emergency medical services officer or 911 personnel first employed by a county or  
 2 political subdivision in covered employment after the effective date of this article shall be a  
 3 member of this retirement plan as a condition of employment and upon membership does not  
 4 qualify for membership in any other retirement system administered by the board, so long as he or  
 5 she remains employed in covered employment: *Provided*, That any emergency medical services

6 officer or 911 personnel who has concurrent employment in an additional job or jobs which would  
7 require the emergency medical services officer or 911 personnel to be a member of the West  
8 Virginia Deputy Sheriffs' Retirement System, the West Virginia Municipal Police Officers and  
9 Firefighters Retirement System, or the West Virginia Natural Resources Police Officer Retirement  
10 System shall participate in only one retirement system administered by the board, and the  
11 retirement system applicable to the concurrent employment for which the employee has the  
12 earliest date of hire shall prevail.

13 (b) Any emergency medical services officer employed in covered employment by an  
14 employer which is currently a participating public employer of the Public Employees Retirement  
15 System shall notify in writing both the county commission in the county or officials in the political  
16 subdivision in which he or she is employed and the board of his or her desire to become a member  
17 of the plan by December 31, 2007. Any emergency medical services officer who elects to become  
18 a member of the plan ceases to be a member, or have any credit for covered employment in any  
19 other retirement system administered by the board, and shall continue to be ineligible for  
20 membership in any other retirement system administered by the board so long as the emergency  
21 medical services officer remains employed in covered employment by an employer which is  
22 currently a participating public employer of this plan: *Provided*, That any emergency medical  
23 services officer who does not affirmatively elect to become a member of the plan continues to be  
24 eligible for any other retirement system as is, from time to time, offered to other county employees  
25 but is ineligible for this plan regardless of any subsequent termination of employment and rehire.

26 (c) Any emergency medical services officer who was employed as an emergency medical  
27 services officer prior to the effective date, but was not employed on the effective date of this article,  
28 shall become a member upon rehire as an emergency medical services officer. For purposes of  
29 this section, the member's years of service and credited service prior to the effective date shall not  
30 be counted for any purposes under this plan unless the emergency medical services officer has  
31 not received the return of his or her accumulated contributions in the Public Employees Retirement

32 System pursuant to §5-10-30 of this code. The member may request in writing to have his or her  
33 accumulated contributions and employer contributions from covered employment in the Public  
34 Employees Retirement System transferred to the plan. If the conditions of this subsection are met,  
35 all years of the emergency medical services officer's covered employment shall be counted as  
36 years of service for the purposes of this article.

37 (d) Any emergency medical services officer employed in covered employment on the  
38 effective date of this article who has timely elected to transfer into this plan as provided in  
39 subsection (b) of this section shall be given credited service at the time of transfer for all credited  
40 service then standing to the emergency medical services officer's service credit in the Public  
41 Employees Retirement System regardless of whether the credited service (as that term is defined  
42 in §5-10-2 of this code) was earned as an emergency medical services officer. All credited service  
43 standing to the transferring emergency medical services officer's credit in the Public Employees  
44 Retirement System at the time of transfer into this plan shall be transferred into the plan created by  
45 this article and the transferring emergency medical services officer shall be given the same credit  
46 for the purposes of this article for all service transferred from the Public Employees Retirement  
47 System as that transferring emergency medical services officer would have received from the  
48 Public Employees Retirement System as if the transfer had not occurred. In connection with each  
49 transferring emergency medical services officer receiving credit for prior employment as provided  
50 in this subsection, a transfer from the Public Employees Retirement System to this plan shall be  
51 made pursuant to the procedures described in this article: *Provided*, That any member of this plan  
52 who has elected to transfer from the Public Employees Retirement System into this plan pursuant  
53 to subsection (b) of this section may not, after having transferred into and becoming an active  
54 member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in  
55 which the member was not in covered employment as an emergency medical services officer and  
56 which service was withdrawn from the Public Employees Retirement System prior to his or her  
57 elective transfer into this plan.

58 (e) Once made, the election made under this section is irrevocable. All emergency medical  
59 services officers employed by an employer which is a participating public employer of the Public  
60 Employees Retirement System after the effective date and emergency medical services officers  
61 electing to become members as described in this section shall be members as a condition of  
62 employment and shall make the contributions required by this article.

63 (f) Notwithstanding any other provisions of this article, any individual who is a leased  
64 employee is not eligible to participate in the plan. For purposes of this plan, a "leased employee"  
65 means any individual who performs services as an independent contractor or pursuant to an  
66 agreement with an employee leasing organization or similar organization. If a question arises  
67 regarding the status of an individual as a leased employee, the board has final power to decide the  
68 question.

**§16-5V-6c. 911 Personnel**

1 (a) In accordance with the provisions of this article, the board shall effect the voluntary  
2 transfer of members of the Public Employees Retirement System to the Emergency Medical  
3 Services Retirement System.

4 (b) If at least 75 percent of actively contributing members of the Public Employees  
5 Retirement System currently employed as 911 personnel affirmatively elect to transfer to the  
6 Emergency Medical Services Retirement System within the period provided in subsection (e) of  
7 this section, then the board shall transfer to the Emergency Medical Services Retirement System,  
8 effective July 1, 2024, all members who affirmatively elected to do so during that period. If more  
9 than 25 percent of actively contributing members of the Public Employees Retirement System  
10 currently employed as 911 personnel do not affirmatively elect to transfer to the Emergency  
11 Medical Services Retirement System within that period, the Public Employees Retirement System  
12 continues as the retirement system for all members in that system hired on or before July 1, 2022.

13 (c) Notwithstanding any other provision of this article to the contrary, a person employed as  
14 a 911 personnel may be a member of this retirement plan subject to the provisions of this section.

15 Full-time employment as a 911 personnel satisfies the definition of "covered employment" as  
16 defined in this article.

17 (d) Any 911 personnel first employed by a participating employer after July 1, 2022, shall  
18 be a member of this retirement plan by virtue of that employment and upon membership does not  
19 qualify for membership in any other retirement system administered by the board, so long as he or  
20 she remains employed in covered employment: *Provided*, That if a member has concurrent  
21 employment in an additional job or jobs the relevant concurrent employment provisions of this  
22 code shall apply.

23 (e) Any 911 personnel employed in covered employment by a participating employer which  
24 is currently a participating public employer of the Public Employees Retirement System shall notify  
25 in writing both the participating employer in which he or she is employed, and the board, of his or  
26 her desire to become a member of the plan by December 31, 2023. Any 911 personnel who elects  
27 to become a member of the plan does not qualify for active membership in any other retirement  
28 system administered by the board, so long as he or she remains employed in covered  
29 employment: *Provided*, That any 911 personnel who has concurrent employment in an additional  
30 job or jobs which would require the 911 personnel to be an active member of the West Virginia  
31 Deputy Sheriffs' Retirement System, the West Virginia Municipal Police Officers and Firefighters  
32 Retirement System, or the West Virginia Natural Resources Police Officer Retirement System  
33 shall actively participate in only one retirement system administered by the board, and the  
34 retirement system applicable to the concurrent employment for which the employee has the  
35 earliest date of hire shall prevail. Any 911 personnel shall continue to receive his or her accrued  
36 benefit of other retirement systems administered by the board, except in the case of Public  
37 Employee Retirement System, when credit and assets are transferred to the Emergency Services  
38 Retirement System.

39 (f) Any 911 personnel who was employed as 911 personnel prior to the effective date, but  
40 was not employed on the effective date of this article, shall become a member upon rehire as 911



41 personnel. For purposes of this section, the member's years of service and credited service prior  
42 to the effective date shall not be counted for any purposes under this plan unless the 911  
43 personnel has not received the return of his or her accumulated contributions in the Public  
44 Employees Retirement System pursuant to §5-10-30 of this code. The member may request in  
45 writing to have his or her accumulated contributions and employer contributions from covered  
46 employment in the Public Employees Retirement System transferred to the plan. If the conditions  
47 of this subsection are met, all years of the 911 personnel's covered employment shall be counted  
48 as years of service for the purposes of this article.

49 (g) Any 911 personnel employed in covered employment on the effective date of this article  
50 who has timely elected to transfer into this plan as provided in subsection (e) of this section shall  
51 be given credited service at the time of transfer for all credited service then standing to the 911  
52 personnel's service credit in the Public Employees Retirement System regardless of whether the  
53 credited service, as defined in §5-10-2 of this code, was earned as a 911 personnel. All credited  
54 service standing to the transferring 911 personnel's credit in the Public Employees Retirement  
55 System at the time of transfer into this plan shall be transferred into the plan created by this article,  
56 and the transferring 911 personnel shall be given the same credit for the purposes of this article for  
57 all service transferred from the Public Employees Retirement System as that transferring 911  
58 personnel would have received from the Public Employees Retirement System as if the transfer  
59 had not occurred but with accrued benefit multipliers subject to the provisions of §16-5V-12 of this  
60 code. In connection with each transferring 911 personnel receiving credit for prior employment as  
61 provided in this subsection, a transfer from the Public Employees Retirement System to this plan  
62 shall be made pursuant to the procedures described in this article: *Provided*, That any member of  
63 this plan who has elected to transfer from the Public Employees Retirement System into this plan  
64 pursuant to subsection (e) of this section may not, after having transferred into and becoming an  
65 active member of this plan, reinstate to his or her credit in this plan any service credit relating to  
66 periods in which the member was not in covered employment as a 911 personnel and which

67 service was withdrawn from the Public Employees Retirement System prior to his or her elective  
68 transfer into this plan.

69 (h) Once made, the election made under this section is irrevocable. All 911 personnel  
70 employed by an employer which is a participating public employer of the Public Employees  
71 Retirement System after the effective date, and 911 personnel electing to become members as  
72 described in this section, shall be members as a condition of employment and shall make the  
73 contributions required by this article.

**§16-5V-6d. Transfer of 911 personnel assets from Public Employees Retirement System.**

1 (a) In accordance with the provisions of this article, the board shall effect the voluntary  
2 transfer of members of the Public Employees Retirement System to the Emergency Medical  
3 Services Retirement System.

4 (b) If at least 75 percent of actively contributing members of the Public Employees  
5 Retirement System currently employed as 911 personnel affirmatively elect to transfer to the  
6 Emergency Medical Services Retirement System within the period provided in subsection (e) of  
7 this section, then the board shall transfer to the Emergency Medical Services Retirement System,  
8 effective July 1, 2024, all members who affirmatively elected to do so during that period. If more  
9 than 25 percent of actively contributing members of the Public Employees Retirement System  
10 currently employed as 911 personnel do not affirmatively elect to transfer to the Emergency  
11 Medical Services Retirement System within that period, the Public Employees Retirement System  
12 continues as the retirement system for all members in that system hired on or before July 1, 2022.

13 (c) The Consolidated Public Retirement Board shall, within 180 days of January 1, 2024,  
14 transfer assets from the Public Employees Retirement System Trust Fund into the West Virginia  
15 Emergency Medical Services Trust Fund.

16 (d) The amount of assets to be transferred for each transferring 911 personnel shall be  
17 computed as of January 1, 2024, using the July 1, 2023, actuarial valuation of the Public  
18 Employees Retirement System, and updated with 7.25 percent annual interest to the date of the

19 actual asset transfer. The market value of the assets of the transferring 911 personnel in the Public  
20 Employees Retirement System shall be determined as of the end of the month preceding the  
21 actual transfer. To determine the computation of the asset share to be transferred the board shall:

22 (1) Compute the market value of the Public Employees Retirement System assets as of  
23 July 1, 2023, actuarial valuation date under the actuarial valuation approved by the board;

24 (2) Compute the actuarial accrued liabilities for all Public Employees Retirement System  
25 retirees, beneficiaries, disabled retirees, and terminated inactive members as of July 1, 2023,  
26 actuarial valuation date;

27 (3) Compute the market value of active member assets in the Public Employees  
28 Retirement System as of July 1, 2023, by reducing the assets value under subdivision (1) of this  
29 subsection by the inactive liabilities under subdivision (2) of this subsection;

30 (4) Compute the actuarial accrued liability for all active Public Employees Retirement  
31 System members as of July 1, 2023, actuarial valuation date approved by the board;

32 (5) Compute the funded percentage of the active members' actuarial accrued liabilities  
33 under the Public Employees Retirement System as of July 1, 2023, by dividing the active  
34 members' market value of assets under subdivision (3) of this subsection by the active members'  
35 actuarial accrued liabilities under subdivision (4) of this subsection;

36 (6) Compute the actuarial accrued liabilities under the Public Employees Retirement  
37 System as of July 1, 2023, for active emergency medical services officers transferring to the  
38 Emergency Medical Services Retirement System;

39 (7) Determine the assets to be transferred from the Public Employees Retirement System  
40 to the Emergency Medical Services Retirement System by multiplying the active members' funded  
41 percentage determined under subdivision (5) of this subsection by the transferring active  
42 members' actuarial accrued liabilities under the Public Employees Retirement System under  
43 subdivision (6) of this subsection and adjusting the asset transfer amount by interest at 7.25

44 percent for the period from the calculation date of July 1, 2023, through the first day of the month in  
45 which the asset transfer is to be completed.

46 (e) Once a 911 personnel has elected to transfer from the Public Employees Retirement  
47 System, transfer of that amount as calculated in accordance with the provisions of subsection (b)  
48 of this section by the Public Employees Retirement System shall operate as a complete bar to any  
49 further liability to the Public Employees Retirement System and constitutes an agreement  
50 whereby the transferring 911 personnel forever indemnifies and holds harmless the Public  
51 Employees Retirement System from providing him or her any form of retirement benefit  
52 whatsoever until that emergency medical services officer obtains other employment which would  
53 make him or her eligible to reenter the Public Employees Retirement System with no credit  
54 whatsoever for the amounts transferred to the Emergency Medical Services Retirement System.

55 (f) The Consolidated Public Retirement Board shall, within 180 days of January 1, 2024,  
56 provide each 911 personnel, who has timely elected to transfer into this plan, and whose  
57 participating employer has provided years of service as 911 personnel, a quote to qualify time  
58 spent only as 911 personnel as eligible for the full 2.75% multiplier. Other PERS employment is  
59 eligible for transfer, but only at the 2% multiplier. To determine the computation of the quote  
60 provided, the board shall:

61 (1) Compute the contributions made by each 911 personnel for eligible 911 years under  
62 PERS.

63 (2) Compute the contributions that would have been required under EMSRS for eligible  
64 911 years.

65 (3) Compute the difference with interest that each 911 personnel would have been required  
66 to pay had he or she originally participated in EMSRS for eligible 911 years.

67 (4) Provide the quote with options similar to reinstatement of prior service: full  
68 reinstatement amount must be repaid (in a lump sum or payments) no later than January 1, 2030,  
69 with payments starting no later than January 1, 2026.

70 (g) Any administrative costs to the board associated with this transfer shall be borne by the  
71 participating employers of the transferring members, in relative proportion to the number of  
72 members employed.

**§16-5V-14a. Rollovers and transfers to purchase service credit or repay withdrawn contributions.**

1 (a) Notwithstanding any provision of this article to the contrary that would otherwise  
2 prohibit or limit rollovers and plan transfers to this system, the plan shall accept the following  
3 rollovers and plan transfers on behalf of a member solely for the purpose of purchasing permissive  
4 service credit, in whole or in part, as otherwise provided in this article or for the repayment of  
5 withdrawn or refunded contributions, in whole and in part, with respect to a previous forfeiture of  
6 service credit as otherwise provided in this article or for the purpose of paying higher contributions  
7 with interest for credit towards eligible 911 service upon initial transfer into this plan: (A) One or  
8 more rollovers within the meaning of Section 408(d)(3) of the Internal Revenue Code from an  
9 individual retirement account described in Section 408(a) of the Internal Revenue Code or from an  
10 individual retirement annuity described in Section 408(b) of the Internal Revenue Code; (B) one or  
11 more rollovers described in Section 402(c) of the Internal Revenue Code from a retirement plan  
12 that is qualified under Section 401(a) of the Internal Revenue Code or from a plan described in  
13 Section 403(b) of the Internal Revenue Code; (C) one or more rollovers described in Section  
14 457(e)(16) of the Internal Revenue Code from a governmental plan described in Section 457 of the  
15 Internal Revenue Code; or (D) direct trustee-to-trustee transfers or rollovers from a plan that is  
16 qualified under Section 401(a) of the Internal Revenue Code, from a plan described in Section  
17 403(b) of the Internal Revenue Code or from a governmental plan described in Section 457 of the  
18 Internal Revenue Code: Provided, That any rollovers or transfers pursuant to this section shall be  
19 accepted by the system only if made in cash or other asset permitted by the board and only in  
20 accordance with such policies, practices and procedures established by the board from time to  
21 time. For purposes of this article, the following definitions and limitations apply:

22 (1) "Permissive service credit" means service credit which is permitted to be purchased  
23 under the terms of the retirement system by voluntary contributions in an amount which does not  
24 exceed the amount necessary to fund the benefit attributable to the period of service for which the  
25 service credit is being purchased, all as defined in Section 415(n)(3)(A) of the Internal Revenue  
26 Code: ~~Provided~~ Provided, That no more than five years of "nonqualified service credit", as defined  
27 in Section 415(n)(3)(C) of the Internal Revenue Code, may be included in the permissive service  
28 credit allowed to be purchased (other than by means of a rollover or plan transfer), and no  
29 nonqualified service credit may be included in any such purchase (other than by means of a  
30 rollover or plan transfer) before the member has at least five years of participation in the retirement  
31 system.

32 (2) "Repayment of withdrawn or refunded contributions" means the payment into the  
33 retirement system of the funds required pursuant to this article for the reinstatement of service  
34 credit previously forfeited on account of any refund or withdrawal of contributions permitted in this  
35 article, as set forth in Section 415(k)(3) of the Internal Revenue Code.

36 (3) Any contribution (other than by means of a rollover or plan transfer) to purchase  
37 permissive service credit under any provision of this article must satisfy the special limitation rules  
38 described in Section 415(n) of the Internal Revenue Code, and shall be automatically reduced,  
39 limited, or required to be paid over multiple years if necessary to ensure such compliance. To the  
40 extent any such purchased permissive service credit is qualified military service within the  
41 meaning of Section 414(u) of the Internal Revenue Code, the limitations of Section 415 of the  
42 Internal Revenue Code shall be applied to such purchase as described in Section 414(u)(1)(B) of  
43 the Internal Revenue Code.

44 (4) For purposes of Section 415(b) of the Internal Revenue Code, the annual benefit  
45 attributable to any rollover contribution accepted pursuant to this section shall be determined in  
46 accordance with Treasury Regulation §1.415(b)-1(b)(2)(v), and the excess, if any, of the annuity  
47 payments attributable to any rollover contribution provided under the retirement system over the

48 annual benefit so determined shall be taken into account when applying the accrued benefit  
49 limitations of Section 415(b) of the Internal Revenue Code and section twelve of this article.

50 (b) Nothing in this section may be construed as permitting rollovers or transfers into this  
51 system or any other system administered by the retirement board other than as specified in this  
52 section, and no rollover or transfer shall be accepted into the system in an amount greater than the  
53 amount required for the purchase of permissive service credit or repayment of withdrawn or  
54 refunded contributions.

55 (c) Nothing in this section shall be construed as permitting the purchase of service credit or  
56 repayment of withdrawn or refunded contributions except as otherwise permitted in this article.

NOTE: The purpose of this bill is to transfer existing 911 Personnel from the Public Employees Retirement System to the Emergency Medical Services Retirement System.

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