

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 623

By Senators Barrett, Hamilton, Phillips, Deeds, and

Maroney

[Introduced February 14, 2023; referred
to the Committee on Pensions; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
 2 sections, designated §16-5V-6c and §16-5V-6d, all relating to authorizing firefighters
 3 employed by the 130th and 167th Airlift Wings of the West Virginia National Guard to be
 4 members of the Emergency Medical Services Retirement System; providing for transfer of
 5 assets pertaining to firefighters employed by the 130th and 167th Airlift Wings of the West
 6 Virginia National Guard; requiring certain computations to be made by the Consolidated
 7 Public Retirement Board; and terminating liability of the Public Employees Retirement
 8 System.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-6c. Firefighters of the 130th and 167th Airlift Wings of the West Virginia National
Guard **Members.**

1 (a) Notwithstanding any other provision of this article to the contrary, a person employed as
 2 a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard may be a
 3 member of this retirement plan subject to the provisions of this section. Full-time employment as a
 4 firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard satisfies the
 5 definition of "covered employment" as defined in this article.

6 (b) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard
 7 first employed by the West Virginia National Guard after the effective date of the revisions to this
 8 article made in the 2022 legislative session, shall be a member of this retirement plan by virtue of
 9 that employment and upon membership does not qualify for membership in any other retirement
 10 system administered by the board, as long as he or she remains employed in covered
 11 employment: *Provided*, That if a member has concurrent employment in an additional job or jobs
 12 the relevant concurrent employment provisions of this code shall apply.

13 (c) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard
 14 employed in covered employment by an employer which is currently a participating public

15 employer of the Public Employees Retirement System shall notify in writing both the West Virginia
16 National Guard and the board of his or her desire to become a member of the plan by December
17 31, 2022. Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard
18 who elects to become a member of the plan ceases to be a member or have any credit for covered
19 employment in any other retirement system administered by the board and shall continue to be
20 ineligible for membership in any other retirement system administered by the board as long as the
21 firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard remains
22 employed in covered employment by an employer which is currently a participating public
23 employer of this plan: *Provided*, That any firefighter of the 130th and 167th Airlift Wings of the West
24 Virginia National Guard who does not affirmatively elect to become a member of the plan
25 continues to be eligible for any other retirement system as is, from time to time, offered to other
26 employees of the West Virginia National Guard but is ineligible for this plan regardless of any
27 subsequent termination of employment and rehire as a firefighter of the 130th and 167th Airlift
28 Wings of the West Virginia National Guard.

29 (d) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard
30 who was employed as a firefighter of the 130th and 167th Airlift Wings of the West Virginia
31 National Guard prior to the effective date of this section, but was not employed on the effective
32 date of this article, shall become a member upon rehire as a firefighter of the 130th and 167th Airlift
33 Wings of the West Virginia National Guard. For purposes of this section, the member's years of
34 service and credited service prior to the effective date may not be counted for any purposes under
35 this plan unless the firefighter of the 130th and 167th Airlift Wings of the West Virginia National
36 Guard has not received the return of his or her accumulated contributions in the Public Employees
37 Retirement System pursuant to §5-10-30 of this code. The member may request in writing to have
38 his or her accumulated contributions and employer contributions from covered employment in the
39 Public Employees Retirement System transferred to the plan. If the conditions of this subsection
40 are met, all years of the firefighter of the 130th and 167th Airlift Wings of the West Virginia National

41 Guard's covered employment shall be counted as years of service for the purposes of this article.

42 (e) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard

43 employed in covered employment on the effective date of this article who has timely elected to

44 transfer into this plan as provided in subsection (c) of this section shall be given credited service at

45 the time of transfer for all credited service then standing to the firefighter of the 130th and 167th

46 Airlift Wings of the West Virginia National Guard service credit in the Public Employees Retirement

47 System regardless of whether the credited service, as defined in §5-10-2 of this code, was earned

48 as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard. All credited

49 service standing to the transferring firefighter of the 130th and 167th Airlift Wings of the West

50 Virginia National Guard's credit in the Public Employees Retirement System at the time of transfer

51 into this plan shall be transferred into the plan created by this article and the transferring firefighter

52 of the 130th and 167th Airlift Wings of the West Virginia National Guard shall be given the same

53 credit for the purposes of this article for all service transferred from the Public Employees

54 Retirement System as that transferring firefighter of the 130th and 167th Airlift Wings of the West

55 Virginia National Guard would have received from the Public Employees Retirement System as if

56 the transfer had not occurred. In connection with each transferring firefighter of the 130th and

57 167th Airlift Wings of the West Virginia National Guard receiving credit for prior employment as

58 provided in this subsection, a transfer from the Public Employees Retirement System to this plan

59 shall be made pursuant to the procedures described in this article: *Provided*, That any member of

60 this plan who has elected to transfer from the Public Employees Retirement System into this plan

61 pursuant to subsection (c) of this section may not, after having transferred into and becoming an

62 active member of this plan, reinstate to his or her credit in this plan any service credit relating to

63 periods in which the member was not in covered employment as a firefighter of the 130th and

64 167th Airlift Wings of the West Virginia National Guard and which service was withdrawn from the

65 Public Employees Retirement System prior to his or her elective transfer into this plan.

66 (f) Once made, the election made under this section is irrevocable. All firefighters of the
 67 130th and 167th Airlift Wings of the West Virginia National Guard employed by an employer which
 68 is a participating public employer of the Public Employees Retirement System after the effective
 69 date and firefighters of the 130th and 167th Airlift Wings of the West Virginia National Guard
 70 electing to become members as described in this section shall be members as a condition of
 71 employment and shall make the contributions required by this article.

§16-5V-6d. Transfer of county firefighter member assets from Public Employees Retirement System.

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

4 (b) The amount of assets to be transferred for each transferring firefighter of the 130th and
 5 167th Airlift Wings of the West Virginia National Guard shall be computed as of January 1, 2024,
 6 using July 1, 2023, actuarial valuation of the Public Employees Retirement System, and updated
 7 with 7.25 percent annual interest to the date of the actual asset transfer. The market value of the
 8 assets of the transferring firefighter of the 130th and 167th Airlift Wings of the West Virginia
 9 National Guard in the Public Employees Retirement System shall be determined as of the end of
 10 the month preceding the actual transfer. To determine the computation of the asset share to be
 11 transferred the board shall:

12 (1) Compute the market value of the Public Employees Retirement System assets as of
 13 July 1, 2022, actuarial valuation date under the actuarial valuation approved by the board;

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

17 (3) Compute the market value of active member assets in the Public Employees
 18 Retirement System as of July 1, 2023, by reducing the assets value under subdivision (1) of this

19 subsection by the inactive liabilities under subdivision (2) of this subsection;

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

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

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

29 (7) Determine the assets to be transferred from the Public Employees Retirement System
30 to the Emergency Medical Services Retirement System by multiplying the active members' funded
31 percentage determined under subdivision (5) of this subsection by the transferring active
32 members' actuarial accrued liabilities under the Public Employees Retirement System under
33 subdivision (6) of this subsection and adjusting the asset transfer amount by interest at 7.25
34 percent for the period from the calculation date of July 1, 2023, through the first day of the month in
35 which the asset transfer is to be completed.

36 (c) Once a firefighter of the 130th and 167th Airlift Wings of the West Virginia National
37 Guard has elected to transfer from the Public Employees Retirement System, transfer of that
38 amount as calculated in accordance with the provisions of subsection (b) of this section by the
39 Public Employees Retirement System shall operate as a complete bar to any further liability to the
40 Public Employees Retirement System and constitutes an agreement whereby the transferring
41 firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard forever
42 indemnifies and holds harmless the Public Employees Retirement System from providing him or
43 her any form of retirement benefit whatsoever until that emergency medical services officer
44 obtains other employment which would make him or her eligible to reenter the Public Employees

- 45 Retirement System with no credit whatsoever for the amounts transferred to the Emergency
- 46 Medical Services Retirement System.

NOTE: The purpose of this bill is to authorize firefighters employed by the 130th and 167th Airlift Wings of the West Virginia National Guard to be members of 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.