

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5545

FISCAL
NOTE

By Delegate Campbell

[Introduced February 12, 2024; 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, and to
 2 amend said code by adding thereto a new section, designated §15-2A-19a, all relating to
 3 the West Virginia State Police Retirement System, modifying definition of years of service;
 4 and providing partial service credit to retirement system members who have served as a
 5 law enforcement officer for a county or municipality.

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.

8 (3) "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value
 9 computed upon the basis of the mortality table and interest rates as set and adopted by the
 10 retirement board in accordance with the provisions of this article: *Provided*, That when used in the
 11 context of compliance with the federal maximum benefit requirements of Section 415 of the
 12 Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and
 13 interest rates required to comply with those requirements.

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

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

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

19 (7) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-
20 1 *et seq.* of this code.

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

23 (A) Is under the age of 18;

24 (B) After reaching 18 years of age, continues as a full-time student in an accredited high
25 school, college, university or business or trade school until the child or children reaches the age of
26 23 years; or

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

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

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

34 (11) "Employer error" means an omission, misrepresentation, or deliberate act in violation
35 of relevant provisions of the West Virginia Code, the West Virginia Code of State Regulations, or
36 the relevant provisions of both the West Virginia Code and the West Virginia Code of State
37 Regulations by the participating public employer that has resulted in an underpayment or
38 overpayment of contributions required.

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

45 (13) "Fund", "plan", "system" or "retirement system" means the West Virginia State Police
46 Retirement Fund created and established by this article.

47 (14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

48 (15) "Law-enforcement officer" means an individual employed or otherwise engaged in
49 either a public or private position which involves the rendition of services relating to enforcement of
50 federal, state or local laws for the protection of public or private safety, including, but not limited to,
51 positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers or any other
52 law-enforcement position which requires certification, but excluding positions held by elected
53 sheriffs or appointed chiefs of police whose duties are purely administrative in nature.

54 (16) "Medical examination" means an in-person or virtual examination of a member's
55 physical or mental health, or both, by a physician or physicians selected or approved by the board;
56 or, at the discretion of the board, a medical record review of the member's physical or mental
57 health, or both, by a physician selected or approved by the board.

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

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

63 (19) "Partially disabled" means an employee's inability, on a probable permanent basis, to
64 perform the essential duties of a law-enforcement officer by reason of any medically determinable
65 physical or mental impairment which has lasted or can be expected to last for a continuous period
66 of not less than 12 months, but which impairment does not preclude the employee from engaging
67 in other types of nonlaw-enforcement employment.

68 (20) "Physical or mental impairment" means an impairment that results from an
69 anatomical, physiological, or psychological abnormality that is demonstrated by medically
70 accepted clinical and laboratory diagnostic techniques.

71 (21) "Plan year" means the 12-month period commencing on July 1 of any designated year
72 and ending the following June 30.

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

78 (23) "Required beginning date" means April 1 of the calendar year following the later of: (A)
79 The calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if
80 born after June 30, 1949); or (B) the calendar year in which he or she retires or otherwise
81 separates from service with the agency.

82 (24) "Retirant" or "retiree" means any member who commences an annuity payable by the
83 retirement system.

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

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

87 (27) "Totally disabled" means an employee's probable permanent inability to engage in
88 substantial gainful activity by reason of any medically determined physical or mental impairment
89 that can be expected to result in death or that has lasted or can be expected to last for a
90 continuous period of not less than 12 months. For purposes of this subdivision, an employee is
91 totally disabled only if his or her physical or mental impairments are so severe that he or she is not
92 only unable to perform his or her previous work as an employee of the agency, but also cannot,
93 considering his or her age, education and work experience, engage in any other kind of substantial
94 gainful employment which exists in the state regardless of whether: (A) The work exists in the
95 immediate area in which the employee lives; (B) a specific job vacancy exists; or (C) the employee
96 would be hired if he or she applied for work.

97 (28) "Years of service" means the months of service acquired by a member while in active
98 employment with the agency divided by 12. Years of service shall also include the member's
99 service for a law enforcement agency as described in §15-2A-19a of this code. Years of service
100 shall be calculated in years and fraction of a year from the date of active employment of the
101 member with the agency through the date of termination of employment or retirement from the
102 agency. If a member returns to active employment with the agency following a previous
103 termination of employment with the agency and the member has not received a refund of
104 contributions plus interest for the previous employment under §15-2A-8 of this code, service shall
105 be calculated separately for each period of continuous employment and years of service shall be
106 the total service for all periods of employment. Years of service shall exclude any periods of
107 employment with the agency for which a refund of contributions plus interest has been paid to the
108 member unless the employee repays the previous withdrawal, as provided in §15-2A-8 of this
109 code, to reinstate the years of service.

§15-2A-19a. Credit toward retirement for member's prior law enforcement service.

1 Any member who has previously served as a law enforcement officer for a county or
2 municipality is entitled to receive additional credited service equal to one half of the total amount
3 served in that capacity for the purpose of determining the amount of retirement award under the
4 provisions of this article, subject to the following:

5 (1) That he or she substantiates by appropriate documentation or evidence his or her
6 period of employment as a law enforcement officer for a county or municipality; and

7 (2) That he or she is receiving no benefits from any other retirement system for his or her
8 period of employment as a law enforcement officer for a county or municipality.

NOTE: The purpose of this bill is providing partial service credit to members of the State Police Retirement System who have served as a law enforcement officer for a county or municipality.

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