

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 35

BY SENATORS OLIVERIO AND WOELFEL

[Reported March 4, 2025, from the Committee on
Pensions]

1 A BILL to amend and reenact §8-22A-2, §18B-4-5, and §18B-7-5 of the Code of West Virginia,
2 1931, as amended, relating to permitting campus police officers in this state to participate
3 in the Municipal Police and Firefighters Retirement System; updating definitions; allowing
4 campus police officers hired before January 1, 2026, to participate in the Municipal Police
5 and Firefighters Retirement System under certain conditions; and mandating newly hired
6 campus police officers to participate in the Municipal Police and Firefighters Retirement
7 System beginning on January 1, 2026.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

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

§8-22A-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 2.75 percent per year of the
4 member's final average salary for the first 20 years of credited service. Additionally, ~~2~~ two percent
5 per year for 21 through 25 years and 1.5 percent per year for each year over 25 years will be
6 credited with a maximum benefit of 90 percent of a member's final average salary. A member's
7 accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is
8 subject to the provisions of §8-22A-10 of this code.

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

12 (c) "Active military duty" means full-time duty in the active military service of the United
13 States Army, Navy, Air Force, Coast Guard, or Marine Corps. The term does not include regularly

required training or other duty performed by a member of a reserve component or National Guard unless the member can substantiate that he or she was called into the full-time active military service of the United States and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) "Actuarial equivalent" means a benefit of equal value computed on the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, "actuarial equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

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

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

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a retirement application or the required beginning date, if earlier. For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member's normal retirement age and after completing proper written application for retirement on an application supplied by the board.

(h) "Beneficiary" means a natural person who is entitled to, or will be entitled to, an annuity or other benefit payable by the plan.

(i) "Board" means the Consolidated Public Retirement Board.

(j) "Covered employment" means ~~either~~: (1) Employment as a full-time municipal police officer or firefighter and the active performance of the duties required of that employment; or (2) employment as a full-time campus police officer as described in §18B-4-5 of this code and the active performance of the duties required of that employment; or (3) the period of time during which active duties are not performed but disability benefits are received under this article; or ~~(3)~~ (4) concurrent employment by a municipal police officer or firefighter in a job or jobs in addition to his or her employment as a municipal police officer or firefighter in this plan where the secondary employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: *Provided*, That the police officer or firefighter contributes to the fund created in this article the amount specified as the member's contribution in §8-22A-8 of this code.

(k) "Credited service" means the sum of a member's years of service, active military duty, and disability service.

(l) "Dependent child" means ~~either~~: (1) An unmarried person under age 18 who is: (A) A natural child of the member; (B) a legally adopted child of the member; (C) a child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or (D) a stepchild of the member residing in the member's household at the time of the member's death; or (2) Any unmarried child under age 23: (A) Who is enrolled as a full-time student in an accredited college or university; (B) who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death; and (C) whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

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

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

(o) "Effective date" means January 1, 2010.

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

(q) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last 10 years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly compensation which the member was receiving in the plan year prior to the initial disability. "Final average salary" does not include any lump sum payment for unused, accrued leave of any kind or character.

(r) "Full-time employment" means permanent employment of an employee by a participating ~~municipality~~ employer in a position which normally requires 12 months per year service and requires at least 1,040 hours per year service in that position.

(s) "Fund" means the West Virginia Municipal Police Officers and Firefighters Retirement Fund created by this article.

(t) "Hour of service" means: (1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours

shall be credited to the member for the plan year in which the duties are performed; and (2) each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence, or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member may not be credited with any hours of service for any period of time he or she is receiving benefits under §8-22A-17 and §8-22A-18 of this code; and (3) each hour for which back pay is either awarded or agreed to be paid by the ~~employing municipality~~ participating employer, irrespective of mitigation of damages. The same hours of service may not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

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

(v) "Member" means, except as provided in §8-22A-32 and §8-22A-33 of this code, a person hired as a municipal police officer or municipal firefighter, as defined in this section, by a participating ~~municipal~~ employer on or after January 1, 2010, or a campus police officer as described in §18B-4-5 of this code who is hired after January 1, 2026, or who was hired before that date but elects to become a member as described in that section. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

(w) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

(x) "Municipality" has the meaning ascribed to it in this code.

(y) (1) "Municipal police officer" means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal policemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal policemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal police officer also means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid police department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

(2) "Municipal firefighter" means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal firemen's pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal firemen's pension and relief fund as provided in §8-22-16 of this code: *Provided*, That municipal firefighter also means an individual employed as a member of a paid fire department by a West Virginia municipality or municipal subdivision which is authorized to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid fire department does not mean a department whose employees are paid nominal salaries or wages or are paid only for services actually rendered on an hourly basis.

(z) "Municipal subdivision" means any separate corporation or instrumentality established by one or more municipalities, as permitted by law; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more municipalities.

(aa) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between

the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

(bb) "Normal retirement age" means the first to occur of the following: (1) Attainment of age 50 years and the completion of 20 or more years of regular contributory service; (2) while still in covered employment, attainment of at least age 50 years and when the sum of current age plus regular contributory service equals or exceeds 70 years; (3) while still in covered employment, attainment of at least age 60 years and completion of 10 years of regular contributory service; or (4) attainment of age 62 years and completion of five or more years of regular contributory service.

(cc) "Plan" means the West Virginia Municipal Police Officers and Firefighters Retirement System established by this article.

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

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

(ff) "Regular contributory service" means a member's credited service excluding active military duty, disability service and accrued annual and sick leave service.

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

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

(ii) "Retirement income payments" means the monthly retirement income payments payable.

(jj) "Spouse" means the person to whom the member is legally married on the annuity starting date.

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

(ll) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. For purposes of this subsection: (1) A member is totally disabled only if his or her physical or mental impairment or impairments are so severe that he or she is not only unable to perform his or her previous work as a police officer or firefighter but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration; and (2) "physical or mental impairment" is an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques. The board may require submission of a member's annual tax return for purposes of monitoring the earnings limitation.

(mm) "Vested" means eligible for retirement income payments after completion of five or more years of regular contributory service.

(nn) "Year of service" means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based on the hours of service

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

Hours of Service	Year of Service Credited
Less than 500	0
500 to 999	1/3
1,000 to 1,499	2/3
1,500 or more	1

During a member's first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under §8-22A-17 and §8-22A-18 of this code.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5. Campus police officers; appointment; qualifications; authority; compensation and removal; law enforcement grants; pension plan.

(a) The governing boards may appoint qualified individuals to serve as campus police officers upon any premises owned or leased by the State of West Virginia and under the jurisdiction of the governing boards, subject to the conditions and restrictions established in this section.

(1) A person who previously was qualified for employment as a law-enforcement officer for an agency or political subdivision of any state is considered qualified for appointment as a campus police officer.

(2) Before performing duties as a campus police officer in any county, a person shall qualify as is required of county police officers by:

(A) Taking and filing an oath of office as required by §6-1-1 *et seq.* of this code; and

(B) Posting an official bond as required by §6-2-1 *et seq.* of this code.

(b) A campus police officer may carry a gun and any other dangerous weapon while on duty if the officer fulfills the certification requirement for law-enforcement officers under §30-29-5 of this code or meets the requirements of subsection (a) of this section.

(c) ~~It is the duty of a~~ A campus police officer ~~to~~ shall preserve law and order on:

(1) ~~On the~~ The premises under the jurisdiction of the governing board; and

(2) ~~On any~~ Any street, road, or thoroughfare, except controlled access and open country highways, immediately adjacent to or passing through premises, to which the officer is assigned by the president of the institution.

(A) For the purpose of this subdivision, the campus police officer is a law-enforcement officer pursuant to the provisions of §30-29-1 *et seq.* of this code;

(B) The officer has and may exercise all the powers and authority of a law-enforcement officer as to offenses committed within the area assigned;

(C) The officer is subject to all the requirements and responsibilities of a law-enforcement officer;

(D) Authority assigned pursuant to this subdivision does not supersede in any way the authority or duty of other law-enforcement officers to preserve law and order on ~~such~~ these premises;

(E) Campus police officers may assist a local law-enforcement agency on public highways. The assistance may be provided to control traffic in and around premises owned by the state when:

(i) Traffic is generated as a result of athletic or other activities conducted or sponsored by the institution; and

(ii) The assistance has been requested by the local law-enforcement agency; and

(F) Campus police officers may assist a local law-enforcement agency in any location under the agency's jurisdiction at the request of the agency.

(d) The salary of a campus police officer is paid by the employing governing board. A state institution may furnish each campus police officer with a firearm and an official uniform to be worn while on duty. The institution shall furnish and require each officer while on duty to wear a shield with an appropriate inscription and to carry credentials certifying the person's identity and authority as a campus police officer.

(e) A governing board may at its pleasure revoke the authority of any campus police officer and such officers serve at the will and pleasure of the governing board. The president of the state institution shall report the termination of employment of a campus police officer by filing a notice to that effect in the office of the clerk of each county in which the campus police officer's oath of office was filed.

(f) Notwithstanding any other provisions of this code to the contrary, and for purposes of enhancing the ability of campus police officers to perform their duties, a governing board may apply for and receive any public or private grant or other financial award that is available to other law-enforcement agencies in the state.

(g) Campus police officers hired before January 1, 2026, may elect to participate in the Municipal Police and Firefighters Retirement System administered by the West Virginia Consolidated Public Retirement Board: *Provided*, That no campus police officer participating in the Municipal Police and Firefighters Retirement System may move any service credit or dollars previously accrued from any other retirement plan into the Municipal Police and Firefighters Retirement System: *Provided, however*, That no campus police officer participating in the Municipal Police and Firefighter Retirement System may participate in any other retirement system or plan offered by the campus police officer's employer: *Provided further*, That campus police officers hired before January 1, 2026, must inform the West Virginia Consolidated Public Retirement Board in writing of their choice to become a member of the Municipal Police and

Firefighters Retirement System to begin membership: And provided further, That any campus police officer hired before January 1, 2026, who does not choose to become a member of the Municipal Police and Firefighter Retirement System must inform the West Virginia Consolidated Public Retirement Board in writing of their decision not to participate on or before December 31, 2025, and may not choose to participate in the Municipal Police and Firefighter Retirement System after that date.

(h) All campus police officers hired on or after January 1, 2026, shall participate in the Municipal Police and Firefighters Retirement System.

ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-5. Supplemental and additional retirement plans for employees; payroll deductions; authority to match employee contributions; retroactive curative and technical corrective action.

(a) Any reference in this code to the "additional retirement plan" relating to state higher education employees, means the "Higher Education Retirement Plan" provided in this section. Any state higher education employee participating in a retirement plan upon the effective date of this section continues to participate in that plan and may not elect to participate in any other state retirement plan. Any retirement plan continues to be governed by the provisions of law applicable on the effective date of this section.

(b) The commission, on behalf of the council, governing boards and itself, shall contract for a retirement plan for their employees, to be known as the Higher Education Retirement Plan. The commission, council and governing boards shall make periodic deductions from the salary payments due employees in the amount they are required to contribute to the Higher Education Retirement Plan, which deductions shall be six percent.

(c) The commission, council and governing boards may contract for supplemental retirement plans for any or all of their employees to supplement the benefits employees otherwise receive. The commission, council and governing boards may make additional periodic deductions

from the salary payments due the employees in the amount they are required to contribute for the supplemental retirement plan.

(d) An organization, by way of additional compensation to their employees, shall pay an amount, which, at a minimum, equals the contributions of the employees into the Higher Education Retirement Plan from funds appropriated to the commission, council, or governing board for personal services.

(e) As part of an overall compensation plan, the commission, council or a governing board, each at its sole discretion, may increase its contributions to any employee retirement plan to an amount that exceeds the contributions of employees.

(f) Each participating employee has a full and immediate vested interest in the retirement and death benefits accrued from all the moneys paid into the Higher Education Retirement Plan or a supplemental retirement plan for his or her benefit. Upon proper requisition of a governing board, the commission, or council, the Auditor periodically shall issue a warrant, payable as specified in the requisition, for the total contributions so withheld from the salaries of all participating employees and for the matching funds of the commission, council or governing board.

(g) Any person whose employment commences on or after July 1, 1991, and who is eligible to participate in the Higher Education Retirement Plan, shall participate in that plan and is not eligible to participate in any other state retirement system: *Provided*, That the foregoing provision does not apply to a person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code: *Provided, however, That the foregoing provision does not apply to campus police officers in this state pursuant to §18B-4-5.* The additional retirement plan contracted for by the governing boards prior to July 1, 1991, remains in effect unless changed by the commission. Nothing in this section considers employees of the council or governing boards as employees of the commission, nor is the commission responsible or liable for retirement benefits contracted by, or on behalf of, the council or governing boards.