WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2026

By Delegates Clark, Horst, Honaker, Barnhart, Worrell and Espinosa

[Introduced January 11, 2023; Referred to the Committee on Pensions and Retirement then Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §8-22A-33a and §8-22A-33b, relating to additional opportunity for municipal police officers to transfer into the Municipal Police Officers and Firefighters Retirement System; providing for a phased transition into the plan on the basis of the class of the municipality; providing for transfer of assets pertaining to municipal police officers; requiring certain computations to be made by the Consolidated Public Retirement Board; and terminating liability of the Public Employees Retirement System.

Be it enacted by the Legislature of West Virginia:

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

§8-22A-33a. Additional, one-time option for transfer of police officers from PERS into this system.

(a) Notwithstanding any other provision of §8-22-1 *et seq*. of this code, or of this article, to the contrary, a person employed as a municipal police officer on the effective date of enactment of this section may become a member of the West Virginia Municipal Police Officers and Firefighters Retirement plan under the provisions of this section and section §8-22A-33b of this code.

(b) Any municipal police officer so employed on the effective date of this section who is, at that time, a member of the Public Employees Retirement System may elect instead to become a member of the West Virginia Municipal Police Officers and Firefighters Retirement plan and to have the current value of his or her accumulated contributions transferred to this plan: *Provided,* That if a member has concurrent employment in an additional job or jobs the relevant concurrent employment provisions of this code shall apply.

(c) Any municipal police officer who elects to transfer to the West Virginia Municipal Police Officers and Firefighters Retirement system shall, during the relevant open enrollment period specified in §8-22A-33b of this code, notify in writing his or her employing police department and the Consolidated Public Retirement Board of his or her desire to become a member of the plan.

(d) Any municipal police officer who elects to become a member of this plan ceases to be a member or have any credit for covered employment in any other retirement system administered by the board and shall continue to be ineligible for membership in any other retirement system administered by the board so long as the municipal police officer remains employed in covered employment by an employer which is currently a participating public employer of this plan: *Provided,* That any municipal police officer who does not affirmatively elect to become a member of the plan continues to be eligible for any other retirement system as is, from time to time, offered to other municipal employees but is ineligible for this plan regardless of any subsequent termination of employment and rehire as a municipal police officer.

(e) Any municipal police officer who elects to transfer into this plan as provided in subsection (c) of this section shall be given credited service at the time of transfer, as specified by §8-22A-33b of this code, for all credited service then standing to that municipal police officer’s service credit in the Public Employees Retirement System regardless of whether the credited service, as defined in §5-10-2 of this code, was earned as a municipal police officer. All credited service standing to the transferring municipal police officer’s credit in the Public Employees Retirement System as of the last day of the year in which the officer elects to transfer to the new system shall be transferred into the plan created by this article and the transferring municipal police officer shall be given the same credit for the purposes of this article for all service transferred from the Public Employees Retirement System as that transferring municipal police officer would have received from the Public Employees Retirement System as if the transfer had not occurred. In connection with each transferring municipal police officer receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in this article: *Provided,* That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to subsection (c) of this section may not, after having transferred into, and becoming an active member of, this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment as a municipal police officer and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(f) Once made, the election made under this section is irrevocable.

§8-22A-33b. Schedule and calculations for requests to transfer into the West Virginia Municipal Police Officers and Firefighters Retirement system.

(a) The additional, one-time option for municipal police officers to transfer from the Public Employees Retirement System into the West Virginia Municipal Police Officers and Firefighters Retirement Fund shall be offered to municipal police officers pursuant to the following schedule, based upon the class of the municipality, as established in §8-1-3 of this code.

(1) *Open enrollment period*. —

(A) Officers of Class III municipalities may exercise their election between October 1, 2023 and December 31, 2023;

(B) Officers of Class II municipalities may exercise their election between October 1, 2024 and December 31, 2024; and

(C) Officers of Class I municipalities may exercise their election between October 1, 2025 and December 31, 2025;

(2) *Actuarial valuation date.* — The actuarial valuation date for municipal police officers each class of municipality shall be July 1 of the year in which election is offered to the police officers of the respective municipality;

(3) Total a*sset value calculation date*. — The value of retirement assets corresponding to each municipal police officer electing to transfer to the West Virginia Municipal Police Officers and Firefighters Retirement System shall be calculated as of January 1 of the year immediately following the municipal police officer's election.

(b) The Consolidated Public Retirement Board shall, within sixty days of the total asset value calculation date for each respective class of municipality, transfer the assets of the affected municipal police officers from the Public Employees Retirement System Trust Fund into the West Virginia Municipal Police Officers and Firefighters Retirement Fund.

(c) The amount of assets to be transferred for each transferring municipal police officer shall be computed as of the respective asset value, using the actuarial valuation date specified in subsection (a) this section, of the Public Employees Retirement System, and updated with eight percent annual interest to the date of the actual asset transfer. The market value of the assets of the transferring municipal police officer in the Public Employees Retirement System shall be determined as of the end of the month preceding the actual transfer. To determine the computation of the asset share to be transferred the board shall:

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

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

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

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

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

(6) Compute the actuarial accrued liabilities under the Public Employees Retirement System as of the July 1 actuarial valuation date, for active municipal police officers transferring to the West Virginia Municipal Police Officers and Firefighters Retirement System;

(7) Determine the assets to be transferred from the Public Employees Retirement System to the West Virginia Municipal Police Officers and Firefighters Retirement System by multiplying the active members' funded percentage determined under subdivision (5) of this subsection by the transferring active members' actuarial accrued liabilities under the Public Employees Retirement System under subdivision (6) of this subsection and adjusting the asset transfer amount by interest at eight percent for the period from the July 1 actuarial valuation date through the first day of the month in which the asset transfer is to be completed.

(d) Once a municipal police officer has elected to transfer from the Public Employees Retirement System, transfer of that amount as calculated in accordance with the provisions of subsection (c) of this section by the Public Employees Retirement System shall operate as a complete bar to any further liability to the Public Employees Retirement System and constitutes an agreement whereby the transferring municipal police officer forever indemnifies and holds harmless the Public Employees Retirement System from providing him or her any form of retirement benefit whatsoever until that emergency medical services officer obtains other employment which would make him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever for the amounts transferred to the West Virginia Municipal Police Officers and Firefighters Retirement System.

NOTE: The purpose of this bill is to provide an additional, one-time opportunity for municipal police officers to transfer from the Public Employees Retirement System into the West Virginia Municipal Police Officers and Firefighters 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.