

# **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]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
 2 sections, designated §8-22A-33a and §8-22A-33b, relating to additional opportunity for  
 3 municipal police officers to transfer into the Municipal Police Officers and Firefighters  
 4 Retirement System; providing for a phased transition into the plan on the basis of the class  
 5 of the municipality; providing for transfer of assets pertaining to municipal police officers;  
 6 requiring certain computations to be made by the Consolidated Public Retirement Board;  
 7 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.**

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

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

11 (c) Any municipal police officer who elects to transfer to the West Virginia Municipal Police  
 12 Officers and Firefighters Retirement system shall, during the relevant open enrollment period

13 specified in §8-22A-33b of this code, notify in writing his or her employing police department and  
14 the Consolidated Public Retirement Board of his or her desire to become a member of the plan.

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

24 (e) Any municipal police officer who elects to transfer into this plan as provided in  
25 subsection (c) of this section shall be given credited service at the time of transfer, as specified by  
26 §8-22A-33b of this code, for all credited service then standing to that municipal police officer's  
27 service credit in the Public Employees Retirement System regardless of whether the credited  
28 service, as defined in §5-10-2 of this code, was earned as a municipal police officer. All credited  
29 service standing to the transferring municipal police officer's credit in the Public Employees  
30 Retirement System as of the last day of the year in which the officer elects to transfer to the new  
31 system shall be transferred into the plan created by this article and the transferring municipal  
32 police officer shall be given the same credit for the purposes of this article for all service transferred  
33 from the Public Employees Retirement System as that transferring municipal police officer would  
34 have received from the Public Employees Retirement System as if the transfer had not occurred.  
35 In connection with each transferring municipal police officer receiving credit for prior employment  
36 as provided in this subsection, a transfer from the Public Employees Retirement System to this  
37 plan shall be made pursuant to the procedures described in this article: *Provided*, That any  
38 member of this plan who has elected to transfer from the Public Employees Retirement System

39 into this plan pursuant to subsection (c) of this section may not, after having transferred into, and  
40 becoming an active member of, this plan, reinstate to his or her credit in this plan any service credit  
41 relating to periods in which the member was not in covered employment as a municipal police  
42 officer and which service was withdrawn from the Public Employees Retirement System prior to  
43 his or her elective transfer into this plan.

44 (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.**

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

5 (1) *Open enrollment period.* —

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 (d) Once a municipal police officer has elected to transfer from the Public Employees  
55 Retirement System, transfer of that amount as calculated in accordance with the provisions of  
56 subsection (c) of this section by the Public Employees Retirement System shall operate as a  
57 complete bar to any further liability to the Public Employees Retirement System and constitutes an  
58 agreement whereby the transferring municipal police officer forever indemnifies and holds  
59 harmless the Public Employees Retirement System from providing him or her any form of  
60 retirement benefit whatsoever until that emergency medical services officer obtains other  
61 employment which would make him or her eligible to reenter the Public Employees Retirement  
62 System with no credit whatsoever for the amounts transferred to the West Virginia Municipal  
63 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.