

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2026

BY DELEGATES CLARK, HORST, HONAKER, BARNHART,

WORRELL AND ESPINOSA

[Passed March 11, 2023; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §8-22A-33a, relating to additional opportunity for municipal police officers or
3 firefighters to transfer into the Municipal Police Officers and Firefighters Retirement
4 System; providing conditions upon which municipal police officers or firefighters may
5 transfer into Municipal Police Officers and Firefighters Retirement System; providing for
6 transfer of assets pertaining to municipal police officers or firefighters; requiring certain
7 computations to be made by the Consolidated Public Retirement Board; requiring certain
8 payments; 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. Second special authorization for municipal police or firefighters hired after
July 1, 2015.**

1 (a) Notwithstanding any provision of this code to the contrary, any municipality or
2 municipal subdivision that employs individuals as members of paid police departments or paid
3 fire departments and whose current police officers or firefighters are participating in the Public
4 Employees Retirement System may elect, as provided in same manner as provided in §8-22A-
5 28(a) of this code, to become a participating public employer in the plan and thereby include its
6 police officers and firefighters in the membership of the plan subject to the restrictions provided
7 in this section.

8 (b) The municipality or municipal subdivision may elect to include only police officers or
9 firefighters who have been hired on or after July 1, 2015, to become members of the plan. Police
10 officers or firefighters hired before July 1, 2015, will remain members of the Public Employees
11 Retirement System.

12 (c) The municipality or municipal subdivision must make its election on or prior to July 1,
13 2025.

14 (d) Once a municipality or municipal subdivision makes its election to become a
15 participating public employer pursuant to this section, all police officers or firefighters hired by the
16 municipality or municipal subdivision after the date of election shall be members of the plan:
17 *Provided*, That police officers or firefighters hired by the municipality or municipal subdivision on
18 or after July 1, 2015, who are members of the Public Employees Retirement System, may choose
19 to become a member of the plan by notifying the municipality or municipal subdivision on a form
20 provided by the Consolidated Public Retirement Board: *Provided, however*, That he or she make
21 this decision within ninety days of the municipality or municipal subdivision's decision to
22 participate in the plan. A municipality or municipal subdivision making an election to become a
23 participating public employer pursuant to this section that has hired any police officer or firefighter
24 on or after July 1, 2015, shall notify each police officer or firefighter hired on or after July 1, 2015,
25 of its election to become a participating public employer within thirty days of making the election.
26 This notice shall include instructions as to how a police officer or firefighter may make notification
27 to the municipality or municipal subdivision of his or her decision to become a member in the plan.
28 The municipality or municipal subdivision shall notify the Consolidated Public Retirement Board
29 in writing of any police officer or firefighter hired after July 1, 2015, who has decided to become a
30 member of the plan and terminate his or her membership in the Public Employees Retirement
31 System within thirty days of notification by the police officer or firefighter on forms provided by the
32 Consolidated Public Retirement System.

33 (e) Notwithstanding any other provision of the code to the contrary, any police officer or
34 firefighter hired by a participating public employer on or after July 1, 2015, who chooses pursuant
35 to this section to be a member of the plan, shall be a member of the plan upon acceptance by the
36 Consolidated Public Retirement Board of the notification by the municipality required by this
37 section.

38 (1) The Consolidated Public Retirement Board shall transfer assets and service credit
39 earned on or after July 1, 2015, from the Public Employees Retirement System Trust Fund into

40 the West Virginia Municipal Police Officers and Firefighters Retirement Fund for those police
41 officers or firefighters who elect to be a member of the plan and were members in the Public
42 Employees Retirement System no later than sixty days from receipt of notification by the
43 municipality or municipal subdivision of the police officer or firefighter's election to become a
44 member. The amount of service credit recognized by the plan for the transferring employees shall
45 be the service credit transferred and recognized by the Public Employees Retirement System.

46 (2) The amount of assets to be transferred for each police officer or firefighter shall be
47 computed as of the actuarial valuation date preceding the notification to the Consolidated Public
48 Retirement Board by the municipality or municipal subdivision of the police officer or firefighter's
49 election to become a member and updated with seven and one-half percent annual interest to the
50 date of the actual asset transfer. For purposes of this section, the actuarial valuation date is the
51 most recent actuarial valuation of the Public Employees Retirement System approved by the
52 Consolidated Public Retirement Board. The market value of the assets of the transferring
53 employees in the Public Employees Retirement System shall be determined as of the end of the
54 month preceding the actual transfer. To determine the computation of the asset share to be
55 transferred, the Consolidated Public Retirement Board shall:

56 (A) Compute the market value of the Public Employees Retirement System assets using
57 the actuarial valuation date;

58 (B) Compute the actuarial accrued liabilities for all Public Employees Retirement System
59 retirees, beneficiaries, disabled retirees and terminated inactive members using the actuarial
60 valuation date:

61 (C) Compute the market value of active member assets in the Public Retirement System
62 as of the actuarial valuation date by reducing the assets value under paragraph (A) of this
63 subdivision by the inactive liabilities under paragraph (B) of this subdivision;

64 (D) Compute the actuarial accrued liability for all active Public Employees Retirement
65 System members using the actuarial valuation date immediately preceding the computation date;

66 (E) Compute the funded percentage of the active members' actuarial accrued liabilities
67 under the Public Employees Retirement System as of the actuarial valuation date by dividing the
68 active members' market value of assets under paragraph (C) of this subdivision by the active
69 members' actuarial accrued liabilities under paragraph (D) of this subsection;

70 (F) Compute the actuarial accrued liabilities under the Public Employees Retirement
71 System as of the actuarial valuation date for active employees transferring to the plan;

72 (G) Determine the assets to be transferred from the Public Employees Retirement System
73 to the plan by multiplying the active members' funded percentage determined under paragraph
74 (E) of this subdivision by the transferring active members' actuarial accrued liabilities under the
75 Public Employees Retirement System under paragraph (F) of this subdivision and adjusting the
76 asset transfer amount by interest at seven and five-tenths percent for the period from the
77 calculation date of July 1 through the first day of the month in which the asset transfer is to be
78 completed.

79 (3) Any police officer or firefighter who elects to become a member of the plan must also
80 pay to the plan a four percent contribution no later than June 30, 2027. The contribution shall be
81 calculated as four percent of the member's total earnings for which assets are transferred, plus
82 interest of seven and one-half percent accumulated from the date of the police officer's or
83 firefighter's initial participation in the Public Employees Retirement System through the calculation
84 date. Installment payments may be made over no more than a twenty-four month period plus
85 seven and one-half percent interest shall accrue on the outstanding balance due from the
86 calculation date until paid in full.

87 (4) Once an employee transfers from the Public Employees Retirement System to the
88 plan, the Public Employees Retirement System shall bar any further liability and said transfer will
89 constitute an agreement whereby the transferring employee forever indemnifies and holds
90 harmless the Public Employees Retirement System from providing him or her any form of
91 retirement benefit whatsoever until that employee obtains other employment which would make

- 92 him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever
93 for the amounts transferred to the plan.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is this the.....
Day of, 2023.

.....
Governor