

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 595**

BY SENATORS GAUNCH, BLAIR, BOSO, CARMICHAEL,  
KIRKENDOLL, MAYNARD, PREZIOSO, STOLLINGS,  
WALTERS, PLYMALE AND WILLIAMS, *original sponsors*

[Passed March 10, 2016; in effect 90 days from  
passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §5-10-15c; and to amend said code by adding thereto a new section,  
3 designated §18-7A-17b, all relating to retirement credit for members of the West Virginia  
4 National Guard; and establishing procedure for purchase of military service credit by  
5 members of certain retirement systems with current or prior service in the West Virginia  
6 National Guard.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §5-10-15c; and that said code be amended by adding thereto a new section,  
3 designated §18-7A-17b, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

**§5-10-15c. Military service credit for members of the West Virginia National Guard.**

1 (a)(1) The Legislature recognizes the men and women who have dedicated themselves  
2 to the defense and service of this state through their service in the West Virginia National Guard.  
3 It is the intent of this section to confer military service credit upon members of the Public  
4 Employees Retirement System for any time served in the West Virginia National Guard when they  
5 meet the requirements of this section.

6 (2) In addition to any benefit provided by federal law, any member of the retirement system  
7 who currently or previously has served in the West Virginia National Guard may purchase credited  
8 service for the time served in the West Virginia National Guard, not to exceed sixty months if the

9 following conditions are met:

10 (A) The employee substantiates by appropriate documentation or evidence his or her  
11 service in the West Virginia National Guard;

12 (B) The employee has completed at least twelve consecutive months of contributory  
13 service to the retirement system on or after January 2015; and

14 (C) The employee pays to the retirement system the actuarial reserve purchase amount  
15 within forty-eight months after January 1, 2015, if he or she was employed with a participating  
16 public employer during all twelve months of the calendar year 2015 or the first date on which  
17 employer and employee contributions are received by the retirement system for the employee  
18 after January 2015 if he or she was not employed with a participating public employer during all  
19 twelve months of calendar year 2015 and while he or she continues to be in the employ of a  
20 participating public employer and contributing to the retirement system: *Provided*, That any  
21 employee who ceases employment with a participating public employer before completing the  
22 required actuarial reserve purchase amount in full shall not be eligible to purchase the military  
23 service.

24 (3) Any member of the retirement system who serves, or has served, in the West Virginia  
25 National Guard may purchase one month of military service credit for every fifteen points earned  
26 toward a reserve component retirement during a qualifying year as computed in subdivision (7)  
27 of this subsection. For purposes of this section, points will be verified using the National Guard  
28 Current Annual Statement, Point Credit Summary or other equivalent document, along with any  
29 documentation of any periods of active service of the State of West Virginia as verified by the  
30 Adjutant General's office. All documentation will be submitted to the retirement board by the  
31 employee.

32 (4) In no event, however, may a member purchase or receive a total of more than sixty  
33 months of military service credit under this section; section fifteen, article ten, chapter five of this  
34 code; or any other retirement system administered by the board.

35 (5) In any case of doubt as to the period of service to be credited a member under the  
36 provisions of this section, the board shall have final power to determine the period.

37 (6) To receive credit, an employee must submit a request to purchase military service  
38 credit to the board, on such form or in such other manner as shall be required by the board, within  
39 the twelve consecutive month period required by this subsection or by December 31, 2016,  
40 whichever occurs later. The board shall then calculate the actuarial reserve lump sum purchase  
41 amount, which amount must be paid by the employee within the forty-eight-month period required  
42 by this subsection, as applicable. An employee purchasing military service credit pursuant to this  
43 subsection must do so in a single, lump sum payment: *Provided*, That the board may accept  
44 partial, installment or other similar payments if the employee executes a contract with the board  
45 specifying the amount of military service to be purchased and the payments required: *Provided*,  
46 *however*, That any failure to pay the contract amount in accordance with this section shall be  
47 treated as an overpayment or excess contribution subject to section forty-four of this article and  
48 no military service shall be credited.

49 (7) To calculate the amount of military service credit an employee may purchase, the board  
50 shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and  
51 round up or down to the nearest integer (fractions of 0.5 and greater shall be rounded up), in order  
52 to yield the total number of months of military service credit an employee may purchase, subject  
53 to the sixty-month maximum. An employee may purchase in one-month increments all or part of  
54 the maximum amount of military service credit for which he or she is eligible.

55 (8) If a member who has purchased military service credit pursuant to this subsection is  
56 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of  
57 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or  
58 she paid to the retirement system to purchase military service credit, together with regular interest  
59 on the amount.

60 (9) Military service credit purchased pursuant to this subsection may not be considered

61 contributing service credit or contributory service for purposes of this article.

62 (b)(1) Employees of participating public employers who continue concurrently in active  
63 service of the State of West Virginia with the West Virginia National Guard after the eligible period  
64 to purchase military service credit as set forth in subsection (a) or employees who join the West  
65 Virginia National Guard after participation in the retirement system has commenced may  
66 purchase military service credit earned after the service computed under subsection (a) up to the  
67 sixty-month maximum in every even calendar year following, if the following conditions are met:

68 (A) The employee substantiates by appropriate documentation or evidence his or her  
69 service in the West Virginia National Guard;

70 (B) The employee has completed at least twelve consecutive months of contributory  
71 service to the retirement system in the prior odd year; and

72 (C) The employee pays to the retirement system the actuarial reserve purchase amount  
73 within three months from the date of the cost letter provided by the board and while he or she  
74 continues to be in the employ of a participating public employer and contributing to the retirement  
75 system: *Provided*, That any employee who ceases employment with a participating public  
76 employer before completing the required actuarial reserve purchase amount in full shall not be  
77 eligible to purchase the military service credit.

78 (2) Any member of the retirement system who serves or has served in the West Virginia  
79 National Guard may purchase one month of military service credit for every fifteen points earned  
80 toward a reserve component retirement during a qualifying year as computed in subdivision (6)  
81 of this subsection. For purposes of this section, points will be verified using the National Guard  
82 Current Annual Statement, Point Credit or other equivalent document, along with any  
83 documentation of any periods of active service of the State of West Virginia as verified by the  
84 Adjutant General's office. All documentation will be submitted to the retirement board by the  
85 employee.

86 (3) In no event, however, may a member purchase or receive a total of more than sixty

87 months of military service credit under this section; section fifteen, article ten, chapter five of this  
88 code, or any other retirement system administered by the board.

89 (4) In any case of doubt as to the period of service to be credited a member under the  
90 provisions of this section, the board shall have final power to determine the period.

91 (5) To receive credit, an employee must submit a request to purchase military service  
92 credit to the board, on such form or in such other manner as shall be required by the board, within  
93 the first five months of each even calendar year following the years computed under subsection  
94 (a) of this section. The board shall then calculate the actuarial reserve lump sum purchase  
95 amount, which amount must be paid by the employee within three months from the date of the  
96 cost letter provided by the board. An employee purchasing military service credit pursuant to this  
97 subsection must do so in a single, lump sum payment.

98 (6) To calculate the amount of military service credit an employee may purchase, the board  
99 shall add the total number of points accrued in a qualifying year, divide the total by fifteen, and  
100 round up or down to the nearest integer (fractions of 0.5 and greater shall be rounded up), in order  
101 to yield the total number of months of military service credit an employee may purchase, subject  
102 to the sixty-month maximum. An employee may purchase in one month increments all or part of  
103 the maximum amount of military service credit for which he or she is eligible.

104 (7) If a member who has purchased military service credit pursuant to this subsection is  
105 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of  
106 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or  
107 she paid to the retirement system to purchase military service credit, together with regular interest  
108 on the amount.

109 (8) Military service credit purchased pursuant to this subsection may not be considered  
110 contributing service credit or contributory service for purposes of this article.

111 (c) For purposes of this section:

112 (1) "Active service of the State of West Virginia" means full-time state active duty in the

113 West Virginia Army National Guard or the West Virginia Air National Guard when such duty is  
114 performed upon orders of the Adjutant General of the West Virginia National Guard or the  
115 Governor of West Virginia and which is funded entirely by the state.

116 (2) "Actuarial reserve purchase amount" means the purchase annuity rate multiplied by  
117 the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing  
118 at seven and one-half percent from the calculation month through the purchase month,  
119 compounded monthly: *Provided*, That if the employee elects to pay the full purchase amount on  
120 an installment or partial payment basis as permitted under subsection (a) of this section, the  
121 actuarial reserve purchase amount will include the lump sum payment plus additional interest  
122 accruing at seven and one-half percent until the purchase amount is paid in full.

123 (3) "Calculation month" means the month immediately following the month in which the  
124 employee completes the first twelve consecutive months of contributory service with a  
125 participating public employer on or after January 2015 for computations under subsection (a) of  
126 this section, or the month immediately following the month in which the employee completes  
127 twelve consecutive months of contributory service with a participating public employer in the  
128 preceding odd calendar year for computations under subsection (b) of this section.

129 (4) "Purchase accrued benefit" means two percent times the purchase military service  
130 times the purchase average monthly salary.

131 (5) "Purchase age" means the age of the employee in years and completed months as of  
132 the first day of the calculation month.

133 (6) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of  
134 the calculation month based on the following actuarial assumptions:

135 (A) Interest rate of seven and one-half percent;

136 (B) Mortality of the 1971 group annuity mortality table, fifty percent blended male and  
137 female rates, applied on a unisex basis to all members; and

138 (C) If purchase age is under age sixty-two, a deferred annuity factor with payments

139 commencing at age sixty-two; or

140 (D) If purchase age is sixty-two or over, an immediate annuity factor with payments starting  
141 at the purchase age.

142 (7) "Purchase average monthly salary" means the average monthly salary of the employee  
143 during months two through twelve of the twelve consecutive month period required by the  
144 appropriate subsection.

145 (8) "Purchase military service" means the amount of military service being purchased by  
146 the employee in months up to the sixty-month maximum, calculated in accordance with  
147 subdivision (7) of subsection (a) and subdivision (6) of subsection (b) of this section.

148 (9) "Purchase month" means the month in which the employee deposits the actuarial  
149 reserve lump sum purchase amount in full payment of the service credit being purchased or  
150 makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full  
151 payment of the service credit being purchased.

152 (10) "Qualifying year" means any year in which a member earns the minimum number of  
153 points required to receive credit for the year toward retired pay pursuant to Section 12732 of Title  
154 10, United States Code.

155 (11) "Service in the West Virginia National Guard" means full-time active duty for annual  
156 training in the National Guard, Inactive Duty Training, Active Duty Operational Support, Active  
157 Duty Special Work, funeral honors, State Active Duty as a member of the West Virginia National  
158 Guard or any other similar periods of Title 32 service or active service of the State of West Virginia.

159 (12) "West Virginia National Guard" means the West Virginia Army National Guard and  
160 the West Virginia Air National Guard.

161 (d) The board is authorized to determine all questions and make all decisions relating to  
162 this section and, pursuant to the authority granted to the board in section one, article ten-d of this  
163 chapter, may propose rules for legislative approval in accordance with the provisions of article  
164 three, chapter twenty-nine-a of this code, to administer this section.



## CHAPTER 18. EDUCATION.

### ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

#### §18-7A-17b. Military service credit for members of the West Virginia National Guard.

1           (a)(1) The Legislature recognizes the men and women who have dedicated themselves  
2 to the defense and service of this state through their service in the West Virginia National Guard.  
3 It is the intent of this section to confer military service credit upon members of the Teachers  
4 Retirement System for any time served in the West Virginia National Guard when they meet the  
5 requirements of this section.

6           (2) In addition to any benefit provided by federal law, any active member of the retirement  
7 system who currently or previously has served in the West Virginia National Guard may purchase  
8 credited service for the time served in the West Virginia National Guard, not to exceed sixty  
9 months if the following conditions are met:

10           (A) The active member substantiates by appropriate documentation or evidence his or her  
11 service in the West Virginia National Guard;

12           (B) The active member has completed a complete fiscal year of contributory service to the  
13 retirement system on or after July 1, 2015; and

14           (C) The employee pays to the retirement system the actuarial reserve purchase amount  
15 within forty-eight months after July 1, 2015, if he or she was employed with an employer during a  
16 complete fiscal year in fiscal year 2016 or the first date on which employer and employee  
17 contributions are received by the retirement system for the member for a complete fiscal year if  
18 he or she was not employed with an employer for a complete fiscal year during fiscal year 2016  
19 and while he or she continues to be in the employ of an employer and contributing to the  
20 retirement system: *Provided*, That any member who ceases employment with an employer before  
21 completing the required actuarial reserve purchase amount in full is not eligible to purchase the  
22 military service.

23           (3) Any member of the retirement system who serves, or has served, in the West Virginia  
24 National Guard may purchase one month of military service credit for every fifteen points earned  
25 toward a reserve component retirement during a qualifying year as computed in subdivision (7)  
26 of this subsection. For purposes of this section, points will be verified using the National Guard  
27 Current Annual Statement, Point Credit Summary or other equivalent document, along with any  
28 documentation of any periods of active service with the State of West Virginia as verified by the  
29 Adjutant General's office. All documentation will be submitted to the retirement board by the active  
30 member.

31           (4) In no event, however, may a member purchase or receive a total of more than sixty  
32 months of military service credit under this section, section seventeen-a, article seven-a, chapter  
33 eighteen; or any other retirement system administered by the retirement board.

34           (5) In any case of doubt as to the period of service to be credited a member under the  
35 provisions of this section, the retirement board shall have the final power to determine the period.

36           (6) To receive credit, an active member must submit a request to purchase military service  
37 credit to the retirement board, on such form or in such other manner as shall be required by the  
38 retirement board, within the complete fiscal year required by this subsection or by October 31,  
39 2016, whichever occurs later. The retirement board shall then calculate the actuarial reserve lump  
40 sum purchase amount, which amount must be paid by the employee within the forty-eight-month  
41 period required by this subsection, as applicable. An active member purchasing military service  
42 credit pursuant to this subsection must do so in a single, lump sum payment: *Provided*, That the  
43 retirement board may accept partial installments or other similar payments if the employee  
44 executes a contract with the board specifying the amount of military service to be purchased and  
45 the payments required: *Provided, however*, That any failure to pay the contract amount in  
46 accordance with this section shall be treated as an overpayment or excess contribution subject  
47 to section fourteen-c of this article and no military service shall be credited.

48           (7) To calculate the amount of military service credit an active member may purchase, the

49 retirement board shall add the total number of points accrued in a qualifying year, divide the total  
50 by fifteen, and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded  
51 up), in order to yield the total number of months of military service credit an active member may  
52 purchase, subject to the sixty-month maximum. An active member may purchase in one-month  
53 increments all or part of the maximum amount of military service credit for which he or she is  
54 eligible.

55 (8) If a member who has purchased military service credit pursuant to this subsection is  
56 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of  
57 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or  
58 she paid to the retirement system to purchase military service credit, together with regular interest  
59 on the amount.

60 (9) Military service credit purchased pursuant to this subsection may not be considered  
61 contributing service credit or contributory service for purposes of this article.

62 (b)(1) Active members of an employer who continue concurrently in active service of the  
63 State of West Virginia with the West Virginia National Guard after the eligible period to purchase  
64 military service credit as set forth in subsection (a) of this section, or active members who join the  
65 West Virginia National Guard after participation in the retirement system has commenced may  
66 purchase military service credit earned after the service computed under subsection (a) of this  
67 section up to the sixty-month maximum in every even calendar year following if the following  
68 conditions are met:

69 (A) The active member substantiates by appropriate documentation or evidence his or her  
70 service in the West Virginia National Guard;

71 (B) The active member has completed a complete fiscal year of contributory service to the  
72 retirement system in the prior odd year; and

73 (C) The active member pays to the retirement system the actuarial reserve purchase  
74 amount within three months from the date of the cost letter provided by the retirement board and

75 while he or she continues to be in the employ of an employer and contributing to the retirement  
76 system: *Provided*, That a member who ceases employment with an employer before completing  
77 the required actuarial reserve purchase amount in full is not eligible to purchase the military  
78 service credit.

79 (2) Any member of the retirement system who serves or has served in the West Virginia  
80 National Guard may purchase one month of military service credit for every fifteen points earned  
81 toward a reserve component retirement during a qualifying year as computed in subdivision (6)  
82 of this subsection. For purposes of this section, points will be verified using the Army National  
83 Guard Current Annual Statement, Point Credit Summary or other equivalent document, along with  
84 any documentation of any periods of Active service with the State of West Virginia as verified by  
85 the Adjutant General's Office. All documentation shall be submitted to the retirement board by the  
86 active member.

87 (3) In no event, however, may a member purchase or receive a total of more than sixty  
88 months of military service credit under this section, section seventeen-a, article seven-a, chapter  
89 eighteen, or any other retirement system administered by the retirement board.

90 (4) In any case of doubt as to the period of service to be credited a member under the  
91 provisions of this section, the retirement board shall have final power to determine the period.

92 (5) To receive credit, an active member must submit a request to purchase military service  
93 credit to the retirement board, on such form or in such other manner as shall be required by the  
94 retirement board, by October 31 of each even calendar year following the years computed under  
95 subsection (a) of this section. The retirement board shall then calculate the actuarial reserve lump  
96 sum purchase amount, which amount must be paid by the active member within three months  
97 from the date of the cost letter provided by the retirement board. An active member purchasing  
98 military service credit pursuant to this subsection must do so in a single, lump sum payment.

99 (6) To calculate the amount of military service credit an active member may purchase, the  
100 retirement board shall add the total number of points accrued in a qualifying year, divide the total

101 by fifteen. and round up or down to the nearest integer (fractions of 0.5 or greater shall be rounded  
102 up), in order to yield the total number of months of military service credit an active member may  
103 purchase, subject to the sixty-month maximum. An active member may purchase in one month  
104 increments, all or part of the maximum amount of military service credit for which he or she is  
105 eligible.

106 (7) If a member who has purchased military service credit pursuant to this subsection is  
107 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of  
108 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or  
109 she paid to the retirement system to purchase military service credit, together with regular interest  
110 on the amount.

111 (8) Military service credit purchased pursuant to this subsection may not be considered  
112 contributing service credit or contributory service for purposes of this article.

113 (c) For purposes of this section:

114 (1) "Active service of the State of West Virginia" means full-time state active duty in the  
115 West Virginia Army National Guard or the West Virginia Air National Guard when the duty is  
116 performed upon orders of the Adjutant General of the West Virginia National Guard or the  
117 Governor of West Virginia and which is funded entirely by the state.

118 (2) "Actuarial reserve purchase amount" means the purchase annuity rate multiplied by  
119 the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing  
120 at seven and one-half percent from the calculation month through the purchase month,  
121 compounded monthly: *Provided*, That if the employee elects to pay the full purchase amount on  
122 an installment or partial payment basis as permitted under subsection (a) of this section, the  
123 actuarial reserve purchase amount will include the lump sum payment plus additional interest  
124 accruing at seven and one-half percent until the purchase amount is paid in full.

125 (3) "Calculation month" means the month immediately following the month in which the  
126 employee completes a complete fiscal year of contributory service with an employer on or after

127 July 2015 for computations under subsection (a) of this section, or the month immediately  
128 following the month in which the employee completes a complete fiscal year of contributory  
129 service with an employer in the preceding odd calendar year for computations under subsection  
130 (b) of this section.

131 (4) "Purchase accrued benefit" means two percent times the purchase military service  
132 times the purchase average monthly salary.

133 (5) "Purchase age" means the age of the employee in years and completed months as of  
134 the first day of the calculation month.

135 (6) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of  
136 the calculation month based on the following actuarial assumptions:

137 (A) Interest rate of seven and one-half percent;

138 (B) Mortality of the 1971 group annuity mortality table, fifty percent blended male and  
139 female rates, applied on a unisex basis to all members; and

140 (C) If purchase age is under age sixty-two, a deferred annuity factor with payments  
141 commencing at age sixty-two; or

142 (D) If purchase age is sixty-two or over, an immediate annuity factor with payments starting  
143 at the purchase age.

144 (7) "Purchase average monthly salary" means the average monthly salary of the active  
145 member during the number of months of the member's contract during the fiscal year of  
146 contributory service as required by this section.

147 (8) "Purchase military service" means the amount of military service being purchased by  
148 the active member in months up to the sixty-month maximum, calculated in accordance with  
149 subdivision (7) of subsection (a) and subdivision (6) of Subsection (b) of this section.

150 (9) "Purchase month" means the month in which the active member deposits the actuarial  
151 reserve lump sum purchase amount in full payment of the service credit being purchased or  
152 makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full

153 payment of the service credit being purchased.

154 (10) "Qualifying year" means any year in which a member earns the minimum number of  
155 points required to receive credit for the year toward retired pay pursuant to Section 12732 of Title  
156 10, United States Code.

157 (11) "Service in the West Virginia National Guard" means full-time active duty for annual  
158 training in the National Guard, Inactive Duty Training, Active Duty Operational Support, Active  
159 Duty Special Work, funeral honors, State Active Duty as a member of the West Virginia National  
160 Guard or any other similar periods of Title 32 service or active service of the State of West Virginia.

161 (12) "West Virginia National Guard" means the West Virginia Army National Guard and  
162 the West Virginia Air National Guard.

163 (d) The retirement board is authorized to determine all questions and make all decisions  
164 relating to this section and, pursuant to the authority granted to the retirement board in section  
165 one, article ten-d of chapter five, may propose rules for legislative approval in accordance with  
166 the provisions of article three, chapter twenty-nine-a of this code to administer this section.