

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5269**

By Delegates Gearhart, C. Pritt, Anderson, Griffith,

Kump, Marple, and Williams

(By Request of the Consolidated Public Retirement  
Board)

[Introduced January 29, 2024; Referred to the  
Committee on Pensions and Retirement then  
Finance]



1 A BILL to amend and reenact §8-22A-16, §8-22A-20, and §8-22A-21 of the Code of West Virginia,  
2 1931, as amended, all relating to the Municipal Police Officers and Firefighters Retirement  
3 System; clarifying payment upon death of member with less than 10 years of contributing  
4 service; deleting obsolete provision; and clarifying surviving spouse benefits when  
5 member dies from duty or non-duty related cause.

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

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

**§8-22A-16. Refunds to certain members upon discharge or resignation; deferred  
retirement; preretirement death; forfeitures.**

1 (a) Any member who terminates covered employment and is not eligible to receive  
2 disability benefits or retirement income payments under this article is, by written request filed with  
3 the board, entitled to receive from the fund the member's accumulated contributions. Except as  
4 provided in subsection (b) of this section, on withdrawal, the member shall forfeit his or her  
5 accrued benefit and cease to be a member.

6 (b)(1) Any member who ceases employment in covered employment and active  
7 participation in this plan and who thereafter becomes reemployed in covered employment may not  
8 receive any credited service for any prior accumulated contributions withdrawn from the plan  
9 unless following his or her return to covered employment and active participation in this plan, the  
10 member redeposits in the fund the amount of the accumulated contributions withdrawn from  
11 previous covered employment, together with interest on the accumulated contributions at the rate  
12 determined by the board from the date of withdrawal to the date of redeposit. On repayment he or  
13 she shall receive the same credit on account of his or her former covered employment as if no  
14 refund had been made.

15 (2) The repayment authorized by this subsection shall be made in a lump sum within 60  
16 months of the police officer's or firefighter's reemployment in covered employment.

17 (c) Every member who completes 60 months of regular contributory service may, on  
18 cessation of covered employment, either withdraw his or her accumulated contributions in  
19 accordance with this section or choose not to withdraw his or her accumulated contribution and  
20 receive retirement income payments, if eligible, on attaining normal retirement age.

21 (d) If a member dies from any cause other than those specified in §8-22A-20 of this code  
22 and does not have 10 or more years of ~~credited~~ contributory service, the member's accumulated  
23 contributions may be paid to a named beneficiary or beneficiaries. If no beneficiary is named, then  
24 the accumulated contributions shall be paid to the estate of the deceased member.

25 (e) Notwithstanding any other provision of this article, forfeitures under the plan may not be  
26 applied to increase the benefits any member would otherwise receive under the plan.

**§8-22A-20. Awards and benefits to surviving spouse – When member dies in performance  
of duty, etc.; ~~exception during early period.~~**

1 (a) ~~Except as provided in subsection (a), section nine of this article, the~~ The surviving  
2 spouse of any member who ~~after the effective date of this article while in covered employment, has~~  
3 ~~died or~~ dies by reason of injury, illness or disease resulting from an occupational risk or hazard  
4 inherent in or peculiar to the service required of members, while the member was or is engaged in  
5 the performance of his or her duties as a police officer or firefighter, or the surviving spouse of a  
6 member who dies from any cause while receiving benefits pursuant to §8-22A-17 of this code, is  
7 entitled to receive and shall be paid from the fund benefits as determined in this section. To the  
8 surviving spouse annually, in equal monthly installments during his or her lifetime, an amount  
9 equal to the greater of: (1) Two thirds of the annual compensation received ~~in the preceding~~  
10 ~~twelve-month period~~ by the deceased member during the last 12 full months of contributory  
11 service; or (2) if the member dies after his or her meeting normal retirement age requirements, the  
12 monthly amount which the spouse would have received had the member retired the day before his

13 or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint  
14 annuitant, and then died.

15 (b) Benefits for a surviving spouse received under this section, §8-22A-22 and §8-22A-23  
16 of this code, are in lieu of receipt of any other benefits under this article for the spouse or any other  
17 person or under the provisions of any other state retirement system based on the member's  
18 covered employment.

**§8-22A-21. Awards and benefits to surviving spouse – when member dies from nonservice-  
connected causes.**

1 (a) If a member who has been a contributing member for at least 10 years ~~while in covered~~  
2 ~~employment after the effective date of this article, has died or dies~~ prior to retirement from any  
3 cause other than those specified in §8-22A-20 of this code, and not due to vicious habits,  
4 intemperance or willful misconduct on his or her part, the fund shall pay annually in equal monthly  
5 installments to the surviving spouse during his or her lifetime, a sum equal to the greater of: (1)  
6 One-half of the annual compensation received ~~in the preceding twelve-month employment period~~  
7 by the deceased member during the last 12 full months of contributory service; or (2) if the member  
8 dies after his or her meeting normal retirement age requirements, the monthly amount which the  
9 spouse would have received had the member retired the day before his or her death, elected a 100  
10 percent joint and survivor annuity with the spouse as the joint annuitant, and then died. ~~If the~~  
11 ~~member is receiving disability benefits under this article at the time of his or her death, the amount~~  
12 ~~of the average monthly compensation which the member was receiving in the plan year prior to the~~  
13 ~~initial disability shall be substituted for the annual compensation in subdivision (1) of this~~  
14 ~~subsection~~

15 (b) In any case where a member who had been a contributing member for at least 10 years,  
16 had not obtained the age of 60 and was receiving benefits pursuant to §8-22A-18 of this code, dies  
17 and leaves a surviving spouse, the fund shall pay annually in equal monthly installments to the  
18 surviving spouse during his or her lifetime a sum equal to the greater of: (1) One half of the annual

19 compensation received by the deceased member during the last 12 full months of contributory  
20 service; or (2) if the member dies after meeting normal retirement age requirements, the monthly  
21 amount which the spouse would have received had the member retired the day before his or her  
22 death, elected a 100 percent joint and survivor annuity with the spouse as the joint annuitant, and  
23 then died.

24        ~~(b)~~ (c) Benefits for a surviving spouse received under this section, or other sections of this  
25 article are in lieu of receipt of any other benefits under this article for the spouse or any other  
26 person or under the provisions of any other state retirement system based on the member's  
27 covered employment.

NOTE: The purpose of this bill is to clarify MPFRS surviving spouse benefits when member dies from duty or non-duty related causes.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.