

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5273**

By Delegates Gearheart, 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 §16-5V-18, §16-5V-23, §16-5V-24 and §16-5V-35 of the Code of  
 2 West Virginia, 1931, as amended, all relating to the Emergency Medical Services  
 3 Retirement System; clarifying payment upon death of member with less than 10 years of  
 4 contributory service; clarifying surviving spouse benefits when member dies from duty or  
 5 non-duty related cause; and clarifying age calculation for a member who elected early  
 6 retirement who then returned to work.

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

**ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.**

**§16-5V-18. Refunds to certain members upon discharge or resignation; deferred retirement; preretirement death; forfeitures.**

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

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 8 credited service for any prior withdrawn accumulated contributions from either this plan or the  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 11 accumulated contributions withdrawn from previous covered employment, together with interest  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

15           The repayment authorized by this subsection shall be made in a lump sum within 60  
16 months of the emergency medical services officer's reemployment in covered employment or, if  
17 later, within 60 months of the effective date of this article.

18           (c) A member of this plan who has elected to transfer from the Public Employees  
19 Retirement System into this plan pursuant to §15-5V-6(b), may not, after having transferred into  
20 and become an active member of this plan, reinstate to his or her credit in this plan any service  
21 credit relating to periods of nonemergency medical services officer service withdrawn from the  
22 Public Employees Retirement System prior to his or her elective transfer into this plan.

23           (d) Every member who completes 60 months of covered employment is eligible, upon  
24 cessation of covered employment, to either withdraw his or her accumulated contributions in  
25 accordance with this section or to choose not to withdraw his or her accumulated contribution and  
26 to receive retirement income payments upon attaining early or normal retirement age.

27           (e) In the event a member dies from any cause other than those specified in §16-5V-23 of  
28 this code and does not have 10 or more years of contributory service, the member's accumulated  
29 contributions may be paid to a named beneficiary or beneficiaries. If no beneficiary is named, then  
30 the accumulated contributions shall be paid to the estate of the deceased member.

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

**§16-5V-23. Awards and benefits to surviving spouse – When member dies in performance  
of duty, etc.**

1           (a) The surviving spouse of any member who ~~after the effective date of this article while in~~  
2 ~~covered employment, has died or dies~~ by reason of injury, illness or disease resulting from an  
3 occupational risk or hazard inherent in or peculiar to the service required of members, while the  
4 member was or is engaged in the performance of his or her duties as an emergency medical  
5 services officer, or the survivor spouse of a member who dies from any cause while receiving  
6 benefits pursuant to §16-5V-19, is entitled to receive and shall be paid from the fund benefits as

7 determined in subsection (b) of this section: To the surviving spouse annually, in equal monthly  
8 installments during his or her lifetime an amount equal to the greater of: (1) Two thirds of the  
9 annual compensation received ~~in the preceding twelve-month period~~ by the deceased member  
10 during the last 12 full months of contributory service; or (2) if the member dies after ~~his or her~~  
11 meeting early or normal retirement age requirements, the monthly amount which the spouse  
12 would have received had the member retired the day before his or her death, elected a one  
13 hundred percent joint and survivor annuity with the spouse as the joint annuitant, and then died.  
14 (b) Benefits for a surviving spouse received under this section, §16-5V-25 and §16-5V-26 of this  
15 article are in lieu of receipt of any other benefits under this article for the spouse or any other  
16 person or under the provisions of any other state retirement system based upon the member's  
17 covered employment.

**§16-5V-24. 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 §16-5V-23 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 early or normal retirement age requirements, the monthly amount  
9 which the spouse would have received had the member retired the day before his or her death,  
10 elected a one hundred percent joint and survivor annuity with the spouse as the joint annuitant,  
11 and then died. ~~Where the member is receiving disability benefits under this article at the time of his~~

11 ~~or her death, the average monthly compensation received in the plan year prior to disability shall~~  
12 ~~be substituted for the annual compensation in subdivision (1) of this subsection~~

13 (b) In any case where a retirant who had been a contributing member for at least 10 years,  
14 had not obtained the age of 60 and was receiving benefits pursuant to §16-5V-20 of this code and  
15 leaves a surviving spouse, the fund shall pay annually in equal monthly installments to the  
16 surviving spouse during his or her lifetime a sum equal to the greater of: (1) One half of the annual  
17 compensation received by the deceased member during the last 12 full months of contributory  
18 service; or (2) If the retirant dies after meeting early or normal retirement age requirements, the  
19 monthly amount which the spouse would have received had the member retired the day before his  
20 or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint  
21 annuitant, and then died.

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

**§16-5V-35. Return to covered employment by retirant.**

1 (a) The annuity of any member who retires under the provisions of this article and who  
2 resumes service in covered employment shall be suspended while the member continues in  
3 covered employment. The monthly annuity payment for the month in which the service resumes  
4 shall be pro-rated to the date of commencement of service, and the member shall again become a  
5 contributing member during resumption of service. At the conclusion of resumed service in  
6 covered employment the member shall have his or her annuity recalculated to take into account  
7 the entirety of service in covered employment.

8 (b) Any retirant who retired under the early retirement provisions of §16-5V-16 of this code,  
9 and is subsequently reemployed in covered employment pursuant to this section, and who again

10 retires shall have his or her retirement annuity recalculated as if he or she were retiring at an age  
11 calculated by adding his or her original early retirement age to the number of years and months  
12 during which he or she was reemployed and contributing to the plan. In the event the artificially  
13 determined age, as determined in accordance with the preceding sentence, exceeds 60, the board  
14 shall not make any reduction for early retirement.

NOTE: The purpose of this bill is to clarify EMSRS surviving spouse benefits when member dies from duty or non-duty related cause, and to clarify how to compute a retiree's age when the member elected an early retirement and then returned to work.

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