

HB 2717

FILED

2007 MAR 23 PM 3: 26

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2007



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2717**

(By Delegates Stalnaker, Amores, Craig and Spencer)



Passed March 9, 2007

In Effect Ninety Days from Passage

**ENROLLED** **FILED**

2007 MAR 23 PM 3: 26

COMMITTEE SUBSTITUTE

FOR

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# **H. B. 2717**

(BY DELEGATES STALNAKER, AMORES, CRAIG AND SPENCER)

[Passed March 9, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §5-10A-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-10D-1 of said code; and to amend said code by adding thereto a new article, designated §16-5V-1, §16-5V-2, §16-5V-3, §16-5V-4, §16-5V-5, §16-5V-6, §16-5V-7, §16-5V-8, §16-5V-9, §16-5V-10, §16-5V-11, §16-5V-12, §16-5V-13, §16-5V-14, §16-5V-14a, §16-5V-15, §16-5V-16, §16-5V-17, §16-5V-18, §16-5V-19, §16-5V-20, §16-5V-21, §16-5V-22, §16-5V-23, §16-5V-24, §16-5V-25, §16-5V-26, §16-5V-27, §16-5V-28, §16-5V-29, §16-5V-30, §16-5V-31, §16-5V-32, §16-5V-33 and §16-5V-34, all relating to the Consolidated Public Retirement Board; providing that the board administer the Emergency Medical Services Retirement System; establishing the Emergency Medical Services Retirement System; setting forth definitions including application of honorable service condition to plan participants; providing effective dates and voting requirement; establishing federal qualification requirements; providing for liberal construction; providing that plan is not a substitute for social security; providing for and

setting membership standards; setting forth required contributions from members and employers; creating fund and providing for investments; providing for transfer from Public Employees Retirement System; setting time limits; setting forth notice requirements; providing for the commencement of benefits, federal law maximum benefit limitations, minimum required distributions and direct rollovers; providing for retirement credited through member's use of accrued annual or sick leave; providing for retirement benefits; setting forth annuity options; providing for refunds in certain circumstances; providing for deferred retirement; providing for forfeitures of benefits; providing awards and benefits for duty-related disability and for other causes; requiring physical examinations; establishing criteria for termination of disability; providing for prior disability; providing awards and benefits to surviving spouse and additional death benefits and scholarships for dependent children; providing for burial benefit; prohibiting double death benefits; establishing exemption from taxation, garnishment and other process; authorizing certain deductions; establishing the effect of qualified domestic relation orders; prohibiting fraud; establishing criminal penalties; requiring repayment in certain circumstances; providing for treatment of prior military service; establishing effective date of the system; providing voluntary employer participation; establishing starting date for benefits; limiting county liability; and providing for no forfeiture of benefits if system terminates.

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

That §5-10A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §5-10D-1 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §16-5V-1, §16-5V-2, §16-5V-3, §16-5V-4, §16-5V-5, §16-5V-6, §16-5V-7, §16-5V-8, §16-5V-9, §16-5V-10, §16-5V-11, §16-5V-12, §16-5V-13, §16-5V-14, §16-5V-14a, §16-5V-15, §16-5V-16, §16-5V-17, §16-5V-18, §16-5V-19, §16-5V-20, §16-5V-21, §16-5V-22, §16-5V-23, §16-5V-24, §16-5V-25, §16-5V-26, §16-5V-27, §16-5V-28, §16-5V-29, §16-5V-30, §16-5V-31, §16-5V-32, §16-5V-33 and §16-5V-34, 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 10A. DISQUALIFICATION FOR PUBLIC  
RETIREMENT PLAN BENEFITS.**

**§5-10A-2. Definitions.**

1 As used in this article:

2 (a) "Retirement plan" or "plan" means the Public  
3 Employees Retirement Act, pursuant to article ten, chapter  
4 five of this code; each municipal employees retirement plan,  
5 pursuant to article twenty-two, chapter eight of this code;  
6 each policemen's and firemen's pension and relief fund,  
7 pursuant to article twenty-two, chapter eight of this code; the  
8 West Virginia State Police Death, Disability and Retirement  
9 Fund, pursuant to article two, chapter fifteen of this code; the  
10 West Virginia State Police Retirement System, pursuant to  
11 article two-a, chapter fifteen of this code; the State Teachers  
12 Retirement System, pursuant to article seven-a, chapter  
13 eighteen of this code; the Teachers' Defined Contribution  
14 Retirement System, pursuant to article seven-b, chapter  
15 eighteen of this code; the Deputy Sheriff Retirement System,  
16 pursuant to article fourteen-d, chapter seven of this code;  
17 supplemental and additional retirement plans, pursuant to  
18 section four-a, article twenty-three, chapter eighteen of this  
19 code; the Judges' Retirement System, pursuant to article nine,  
20 chapter fifty-one of this code; the Emergency Medical  
21 Services Retirement System established in article five-v,  
22 chapter sixteen of this code; and any other plan established  
23 pursuant to this code for the payment of pension, annuity,  
24 disability or other benefits to any person by reason of his or  
25 her service as an officer or employee of this state or of any  
26 political subdivision, agency or instrumentality thereof,  
27 whenever the plan is supported in whole or in part by public  
28 funds.

29 (b) “Beneficiary” means any person eligible for or  
30 receiving benefits on account of the service for a public  
31 employer by a participant in a retirement plan.

32 (c) “Benefits” means pension, annuity, disability or any  
33 other benefits granted pursuant to a retirement plan.

34 (d) “Conviction” means a conviction on or after the  
35 effective date of this article in any federal or state court of  
36 record whether following a plea of guilty, not guilty or nolo  
37 contendere, and whether or not the person convicted was  
38 serving as an officer or employee of a public employer at the  
39 time of the conviction.

40 (e) “Less than honorable service” means:

41 (1) Impeachment and conviction of a participant under  
42 the provisions of section nine, article four of the Constitution  
43 of West Virginia, except for a misdemeanor;

44 (2) Conviction of a participant of a felony for conduct  
45 related to his or her office or employment which he or she  
46 committed while holding the office or during the  
47 employment; or

48 (3) Conduct of a participant which constitutes all of the  
49 elements of a crime described in either of the foregoing  
50 subdivisions (1) or (2) but for which the participant was not  
51 convicted because:

52 (i) Having been indicted or having been charged in an  
53 information for the crime, he or she made a plea bargaining  
54 agreement pursuant to which he or she pleaded guilty to or  
55 nolo contendere to a lesser crime: *Provided*, That the lesser  
56 crime is a felony containing all the elements described in  
57 subdivisions (1) or (2) of this subsection; or

58 (ii) Having been indicted or having been charged in an  
59 information for the crime, he or she was granted immunity  
60 from prosecution for the crime.

61 (f) “Participant” means any person eligible for or  
62 receiving any benefit under a retirement plan on account of  
63 his or her service as an officer or employee for a public  
64 employer.

65 (g) “Public employer” means the State of West Virginia  
66 and any political subdivision, agency, or instrumentality  
67 thereof for which there is established a retirement plan.

68 (h) “Supervisory board” or “Board” means the  
69 Consolidated Public Retirement Board; the board of trustees  
70 of any municipal retirement fund; the board of trustees of any  
71 policemen’s or firemen’s retirement plan; the governing  
72 board of any supplemental retirement plan instituted pursuant  
73 to authority granted by section four-a, article twenty-three,  
74 chapter eighteen of this code, and any other board,  
75 commission or public body having the duty to supervise and  
76 operate any retirement plan.

**ARTICLE 10D. Consolidated Public Retirement Board.**

**§5-10D-1. Consolidated Public Retirement Board continued;  
members; vacancies; investment of plan funds.**

1 (a) The Consolidated Public Retirement Board is  
2 continued to administer all public retirement plans in this  
3 state. It shall administer the Public Employees Retirement  
4 System established in article ten of this chapter; the Teachers  
5 Retirement System established in article seven-a, chapter  
6 eighteen of this code; the Teachers Defined Contribution  
7 Retirement System created by article seven-b of said chapter;  
8 the West Virginia State Police Death, Disability and  
9 Retirement Fund created by article two, chapter fifteen of this  
10 code; the West Virginia State Police Retirement System  
11 created by article two-a of said chapter; the Deputy Sheriff  
12 Death, Disability and Retirement Fund created by article  
13 fourteen-d, chapter seven of this code; the Judges’  
14 Retirement System created under article nine, chapter fifty-  
15 one of this code; and the Emergency Medical Services  
16 Retirement System established in article five-v, chapter  
17 sixteen of this code.

18 (b) The membership of the Consolidated Public  
19 Retirement Board consists of:

20 (1) The Governor or his or her designee;

21 (2) The State Treasurer or his or her designee;

22 (3) The State Auditor or his or her designee;

23 (4) The Secretary of the Department of Administration or  
24 his or her designee;

25 (5) Four residents of the state, who are not members,  
26 retirants or beneficiaries of any of the public retirement  
27 systems, to be appointed by the Governor, with the advice  
28 and consent of the Senate; and

29 (6) A member, annuitant or retirant of the Public  
30 Employees Retirement System who is or was a state  
31 employee; a member, annuitant or retirant of the Public  
32 Employees Retirement System who is not or was not a state  
33 employee; a member, annuitant or retirant of the Teachers  
34 Retirement System; a member, annuitant or retirant of the  
35 West Virginia State Police Death, Disability and Retirement  
36 Fund; a member, annuitant or retirant of the Deputy Sheriff  
37 Death, Disability and Retirement Fund; a member, annuitant  
38 or retirant of the Teachers Defined Contribution Retirement  
39 System; and a member, annuitant or retirant of the  
40 Emergency Medical Services Retirement System, all to be  
41 appointed by the Governor, with the advice and consent of  
42 the Senate.

43 (c) The appointed members of the board shall serve five-  
44 year terms. A member appointed pursuant to subdivision (6),  
45 subsection (b) of this section ceases to be a member of the  
46 board if he or she ceases to be a member of the represented  
47 system. If a vacancy occurs in the appointed membership,  
48 the Governor, within sixty days, shall fill the vacancy by  
49 appointment for the unexpired term. No more than five  
50 appointees may be of the same political party.

51 (d) The Consolidated Public Retirement Board has all the  
52 powers, duties, responsibilities and liabilities of the Public  
53 Employees Retirement System established pursuant to article  
54 ten of this chapter; the Teachers Retirement System  
55 established pursuant to article seven-a, chapter eighteen of  
56 this code; the Teachers Defined Contribution System  
57 established pursuant to article seven-b of said chapter; the  
58 West Virginia State Police Death, Disability and Retirement  
59 Fund created pursuant to article two, chapter fifteen of this  
60 code; the West Virginia State Police Retirement System  
61 created by article two-a of said chapter; the Deputy Sheriff  
62 Death, Disability and Retirement Fund created pursuant to  
63 article fourteen-d, chapter seven of this code; the Judges'  
64 Retirement System created pursuant to article nine, chapter  
65 fifty-one of this code; and the Emergency Medical Services  
66 Retirement System established in article five-v, chapter  
67 sixteen of this code and their appropriate governing boards.

68 (e) The Consolidated Public Retirement Board may  
69 propose rules for legislative approval, in accordance with  
70 article three, chapter twenty-nine-a of this code, necessary to  
71 effectuate its powers, duties and responsibilities: *Provided,*  
72 That the board may adopt any or all of the rules, previously  
73 promulgated, of a retirement system which it administers.

74 (f)(1) The Consolidated Public Retirement Board shall  
75 continue to transfer all funds received for the benefit of the  
76 retirement systems within the consolidated pension plan as  
77 defined in section three-c, article six-b, chapter forty-four of  
78 this code, including, but not limited to, all employer and  
79 employee contributions, to the West Virginia Investment  
80 Management Board: *Provided,* That the employer and  
81 employee contributions of the Teachers Defined Contribution  
82 System, established in section three, article seven-b, chapter  
83 eighteen of this code, and voluntary deferred compensation  
84 funds invested by the West Virginia Consolidated Public  
85 Retirement Board pursuant to section five, article ten-b of  
86 this chapter may not be transferred to the West Virginia  
87 Investment Management Board.

88           (2) The board may recover from a participating employer  
89 that fails to pay any amount due a retirement system in a  
90 timely manner the contribution due and an additional amount  
91 not to exceed interest or other earnings lost as a result of the  
92 untimely payment, or a reasonable minimum fee, whichever  
93 is greater, as provided by legislative rule promulgated  
94 pursuant to the provisions of article three, chapter twenty-  
95 nine-a of this code. Any amounts recovered shall be  
96 administered in the same manner in which the amount due is  
97 required to be administered.

98           (g) Notwithstanding any provision of this code or any  
99 legislative rule to the contrary, all assets of the public  
100 retirement plans set forth in subsection (a) of this section  
101 shall be held in trust. The Consolidated Public Retirement  
102 Board is a trustee for all public retirement plans, except with  
103 regard to the investment of funds: *Provided*, That the  
104 Consolidated Public Retirement Board is a trustee with  
105 regard to the investments of the Teachers' Defined  
106 Contribution System and any other assets of the public  
107 retirement plans administered by the Consolidated Public  
108 Retirement Board as set forth in subsection (a) of this section  
109 for which no trustee has been expressly designated in this  
110 code.

111           (h) The board may employ the West Virginia Investment  
112 Management Board to provide investment management  
113 consulting services for the investment of funds in the  
114 Teachers' Defined Contribution System.

## **CHAPTER 16. PUBLIC HEALTH.**

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

#### **§16-5V-1. Title.**

1           This article is known and may be cited as the "West  
2 Virginia Emergency Medical Services Retirement System  
3 Act."

**§16-5V-2. Definitions.**

1 As used in this article, unless a federal law or regulation  
2 or the context clearly requires a different meaning:

3 (a) “Accrued benefit” means on behalf of any member  
4 two and six-tenths percent per year of the member’s final  
5 average salary for the first twenty years of credited service.  
6 Additionally, two percent per year for twenty-one through  
7 twenty-five years and one percent per year for twenty-six  
8 through thirty years will be credited with a maximum benefit  
9 of sixty-seven percent. A member’s accrued benefit may not  
10 exceed the limits of Section 415 of the Internal Revenue  
11 Code and is subject to the provisions of section twelve of this  
12 article.

13 (1) The board may upon the recommendation of the  
14 board actuary increase the employees’ contribution rate to ten  
15 and five-tenths percent should the funding of the plan not  
16 reach seventy percent funded by the first day of July, two  
17 thousand twelve. The board shall decrease the contribution  
18 rate to eight and one-half percent once the plan funding  
19 reaches the seventy percent support objective as of any later  
20 actuarial valuation date.

21 (2) Upon reaching the seventy-five percent actuarial  
22 funded level, as of an actuarial valuation date, the board shall  
23 increase the two and six-tenths percent to two and three-  
24 quarter percent for the first twenty years of credited service.  
25 The maximum benefit will also be increased from sixty-seven  
26 percent to seventy percent.

27 (b) “Accumulated contributions” means the sum of all  
28 retirement contributions deducted from the compensation of  
29 a member, or paid on his or her behalf as a result of covered  
30 employment, together with regular interest on the deducted  
31 amounts.

32 (c) “Active military duty” means full-time active duty  
33 with any branch of the armed forces of the United States,  
34 including service with the national guard or reserve military

35 forces when the member has been called to active full-time  
36 duty and has received no compensation during the period of  
37 that duty from any board or employer other than the armed  
38 forces.

39 (d) "Actuarial equivalent" means a benefit of equal value  
40 computed upon the basis of the mortality table and interest  
41 rates as set and adopted by the board in accordance with the  
42 provisions of this article.

43 (e) "Annual compensation" means the wages paid to the  
44 member during covered employment within the meaning of  
45 Section 3401(a) of the Internal Revenue Code, but  
46 determined without regard to any rules that limit the  
47 remuneration included in wages based upon the nature or  
48 location of employment or services performed during the  
49 plan year plus amounts excluded under Section 414(h)(2) of  
50 the Internal Revenue Code and less reimbursements or other  
51 expense allowances, cash or noncash fringe benefits or both,  
52 deferred compensation and welfare benefits. Annual  
53 compensation for determining benefits during any  
54 determination period may not exceed one hundred thousand  
55 dollars as adjusted for cost-of-living in accordance with  
56 Section 401(a)(17)(B) of the Internal Revenue Code.

57 (f) "Annual leave service" means accrued annual leave.

58 (g) "Annuity starting date" means the first day of the  
59 month for which an annuity is payable after submission of a  
60 retirement application. For purposes of this subsection, if  
61 retirement income payments commence after the normal  
62 retirement age, "retirement" means the first day of the month  
63 following or coincident with the latter of the last day the  
64 member worked in covered employment or the member's  
65 normal retirement age and after completing proper written  
66 application for such "retirement" on an application supplied  
67 by the board.

68 (h) "Board" means the Consolidated Public Retirement  
69 Board.

70 (i) “County commission or political subdivision” has the  
71 meaning ascribed to it in this code.

72 (j) “Covered employment” means either: (1)  
73 Employment as an emergency medical technician, emergency  
74 medical technician/ paramedic or emergency medical  
75 services/registered nurse and the active performance of the  
76 duties required of emergency medical services officers; or (2)  
77 the period of time during which active duties are not  
78 performed but disability benefits are received under this  
79 article; or (3) concurrent employment by an emergency  
80 medical services officer in a job or jobs in addition to his or  
81 her employment as an emergency medical services officer  
82 where such secondary employment requires the emergency  
83 medical services officer to be a member of another retirement  
84 system which is administered by the Consolidated Public  
85 Retirement Board pursuant to this code: *Provided*, That the  
86 emergency medical services officer contributes to the fund  
87 created in this article the amount specified as the member’s  
88 contribution in section eight of this article.

89 (k) “Credited service,” means the sum of a member’s  
90 years of service, active military duty, disability service and  
91 accrued annual and sick leave service.

92 (l) “Emergency medical services officer” means an  
93 individual employed by the State, county or other political  
94 subdivision as a medical professional that is qualified to  
95 respond to medical emergencies, aids the sick and injured and  
96 arranges or transports to medical facilities, as defined by the  
97 West Virginia Office of Emergency Medical Services. This  
98 definition is construed to include employed ambulance  
99 providers and other services such as law enforcement, rescue,  
100 or fire department personnel who primarily perform these  
101 functions and are not provided any other credited service  
102 benefits or retirement plans. These persons may hold the  
103 rank of emergency medical technician/basic, emergency  
104 medical technician/paramedic, emergency medical  
105 services/registered nurse, or others as defined by the West  
106 Virginia Office of Emergency Medical Services and the  
107 Consolidated Public Retirement Board.

108 (m) "Dependent child" means either:

109 (1) An unmarried person under age eighteen who is:

110 (A) A natural child of the member;

111 (B) A legally adopted child of the member;

112 (C) A child who at the time of the member's death was  
113 living with the member while the member was an adopting  
114 parent during any period of probation; or

115 (D) A stepchild of the member residing in the member's  
116 household at the time of the member's death; or

117 (2) Any unmarried child under age twenty-three:

118 (A) Who is enrolled as a full-time student in an  
119 accredited college or university;

120 (B) Who was claimed as a dependent by the member for  
121 federal income tax purposes at the time of member's death;  
122 and

123 (C) Whose relationship with the member is described in  
124 paragraph (A), (B) or (C), subdivision (1) of this subsection.

125 (n) "Dependent parent" means the father or mother of the  
126 member who was claimed as a dependent by the member for  
127 federal income tax purposes at the time of the member's  
128 death.

129 (o) "Disability service" means service received by a  
130 member, expressed in whole years, fractions thereof or both,  
131 equal to one half of the whole years, fractions thereof, or  
132 both, during which time a member receives disability benefits  
133 under this article.

134 (p) "Effective date" means the first day of January, two  
135 thousand eight.

136 (q) “Final average salary” means the average of the  
137 highest annual compensation received for covered  
138 employment by the member during any five consecutive plan  
139 years within the member’s last ten years of service while  
140 employed, prior to any disability payment. If the member did  
141 not have annual compensation for the five full plan years  
142 preceding the member’s attainment of normal retirement age  
143 and during that period the member received disability  
144 benefits under this article then “final average salary” means  
145 the average of the monthly salary determined paid to the  
146 member during that period as determined under section  
147 twenty-two of this article multiplied by twelve. “Final  
148 average salary” does not include any lump sum payment for  
149 unused, accrued leave of any kind or character.

150 (r) “Fund” means the West Virginia Emergency Medical  
151 Services Retirement Fund created by this article.

152 (s) “Hour of service” means:

153 (1) Each hour for which a member is paid or entitled to  
154 payment for covered employment during which time active  
155 duties are performed. These hours shall be credited to the  
156 member for the plan year in which the duties are performed;  
157 and

158 (2) Each hour for which a member is paid or entitled to  
159 payment for covered employment during a plan year but  
160 where no duties are performed due to vacation, holiday,  
161 illness, incapacity including disability, layoff, jury duty,  
162 military duty, leave of absence or any combination thereof,  
163 and without regard to whether the employment relationship  
164 has terminated. Hours under this subdivision shall be  
165 calculated and credited pursuant to West Virginia Division of  
166 Labor rules. A member will not be credited with any hours  
167 of service for any period of time he or she is receiving  
168 benefits under section nineteen or twenty of this article; and

169 (3) Each hour for which back pay is either awarded or  
170 agreed to be paid by the employing county commission or  
171 political subdivision, irrespective of mitigation of damages.

172 The same hours of service shall not be credited both under  
173 subdivision (1) or (2) of this subsection and under this  
174 subdivision. Hours under this paragraph shall be credited to  
175 the member for the plan year or years to which the award or  
176 agreement pertains, rather than the plan year in which the  
177 award, agreement or payment is made.

178 (t) “Member” means a person first hired as an emergency  
179 medical services officer by an employer which is a  
180 participating public employer of the Public Employees  
181 Retirement System or the Emergency Medical Services  
182 Retirement System after the effective date of this article, as  
183 defined in subsection (p) of this section, or an emergency  
184 medical services officer of an employer which is a  
185 participating public employer of the Public Employees  
186 Retirement System first hired prior to the effective date and  
187 who elects to become a member pursuant to this article. A  
188 member shall remain a member until the benefits to which he  
189 or she is entitled under this article are paid or forfeited.

190 (u) “Monthly salary” means the W-2 reportable  
191 compensation received by a member during the month.

192 (v) “Normal form” means a monthly annuity which is one  
193 twelfth of the amount of the member’s accrued benefit which  
194 is payable for the member’s life. If the member dies before  
195 the sum of the payments he or she receives equals his or her  
196 accumulated contributions on the annuity starting date, the  
197 named beneficiary shall receive in one lump sum the  
198 difference between the accumulated contributions at the  
199 annuity starting date and the total of the retirement income  
200 payments made to the member.

201 (w) “Normal retirement age” means the first to occur of  
202 the following:

203 (1) Attainment of age fifty years and the completion of  
204 twenty or more years of regular contributory service,  
205 excluding active military duty, disability service and accrued  
206 annual and sick leave service.

207 (2) While still in covered employment, attainment of at  
208 least age fifty years and when the sum of current age plus  
209 regular contributory years of service equals or exceeds  
210 seventy years;

211 (3) While still in covered employment, attainment of at  
212 least age sixty years and completion of ten years of regular  
213 contributory service; or

214 (4) Attainment of age sixty-two years and completion of  
215 five or more years of regular contributory service.

216 (x) "Public Employees Retirement System" means the  
217 West Virginia Public Employee's Retirement System created  
218 by West Virginia Code.

219 (y) "Plan" means the West Virginia Emergency Medical  
220 Services Retirement System established by this article.

221 (z) "Plan year" means the twelve-month period  
222 commencing on the first day of January of any designated  
223 year and ending the following thirty-first day of December.

224 (aa) "Regular interest" means the rate or rates of interest  
225 per annum, compounded annually, as the board adopts in  
226 accordance with the provisions of this article.

227 (bb) "Retirement income payments" means the monthly  
228 retirement income payments payable under the plan.

229 (cc) "Spouse" means the person to whom the member is  
230 legally married on the annuity starting date.

231 (dd) "Surviving spouse" means the person to whom the  
232 member was legally married at the time of the member's  
233 death and who survived the member.

234 (ee) "Totally disabled" means a member's inability to  
235 engage in substantial gainful activity by reason of any  
236 medically determined physical or mental impairment that can  
237 be expected to result in death or that has lasted or can be

238 expected to last for a continuous period of not less than  
239 twelve months.

240 For purposes of this subsection:

241 (1) A member is totally disabled only if his or her  
242 physical or mental impairment or impairments is so severe  
243 that he or she is not only unable to perform his or her  
244 previous work as an emergency medical services officer but  
245 also cannot, considering his or her age, education and work  
246 experience, engage in any other kind of substantial gainful  
247 employment which exists in the State regardless of whether:  
248 (A) The work exists in the immediate area in which the  
249 member lives; (B) a specific job vacancy exists; or (C) the  
250 member would be hired if he or she applied for work. For  
251 purposes of this article, substantial gainful employment is the  
252 same definition as used by the United States Social Security  
253 Administration.

254 (2) "Physical or mental impairment" is an impairment  
255 that results from an anatomical, physiological or  
256 psychological abnormality that is demonstrated by medically  
257 accepted clinical and laboratory diagnostic techniques. The  
258 board may require submission of a member's annual tax  
259 return for purposes of monitoring the earnings limitation

260 (ff) "Year of service" means a member shall, except in  
261 his or her first and last years of covered employment, be  
262 credited with years of service credit based upon the hours of  
263 service performed as covered employment and credited to the  
264 member during the plan year based upon the following  
265 schedule:

266 Hours of Service Year of Service Credited

267	Less than 500	0
268	500 to 999	1/3
269	1,000 to 1,499	2/3
270	1,500 or more	1

271 During a member's first and last years of covered  
272 employment, the member shall be credited with one twelfth  
273 of a year of service for each month during the plan year in  
274 which the member is credited with an hour of service. A  
275 member is not entitled to credit for years of service for any  
276 time period during which he or she received disability  
277 payments under section nineteen or twenty of this article.  
278 Except as specifically excluded, years of service include  
279 covered employment prior to the effective date.

280 Years of service which are credited to a member prior to  
281 his or her receipt of accumulated contributions upon  
282 termination of employment pursuant to section eighteen of  
283 this article or section thirty, article ten, chapter five of this  
284 code, shall be disregarded for all purposes under this plan  
285 unless the member repays the accumulated contributions with  
286 interest pursuant to section eighteen of this article or had  
287 prior to the effective date made the repayment pursuant to  
288 section eighteen, article ten, chapter five of this code.

289 (gg) "Required beginning date" means the first day of  
290 April of the calendar year following the later of: (1) The  
291 calendar year in which the member attains age seventy and  
292 one-half; or (2) the calendar year in which he or she retires or  
293 otherwise separates from covered employment; or (3) for  
294 members who are covered under the Public Employees  
295 Retirement System, their service shall be recognized upon  
296 transfer of asset from the Public Employees Retirement  
297 System according to the provisions of section nine of this  
298 article. Prior service for members not covered under the  
299 Public Employees Retirement System shall be recognized  
300 only upon repayment of amounts covered under the  
301 provisions of section six of this article.

### **§16-5V-3. Meaning of terms.**

1 Any term used in this article has the same meaning as  
2 when used in a comparable context in the laws of the United  
3 States, unless a different meaning is clearly required. Any  
4 reference in this article to the Internal Revenue Code means  
5 the Internal Revenue Code of 1986, as amended.

**§16-5V-4. Creation and administration of West Virginia  
Emergency Medical Services Retirement  
System; specification of actuarial assumptions.**

1           There is hereby created the West Virginia Emergency  
2    Medical Services Retirement System. The purpose of this  
3    system is to provide for the orderly retirement of emergency  
4    medical services officers who become superannuated because  
5    of age or permanent disability and to provide certain survivor  
6    death benefits. The retirement system shall come into effect  
7    the first day of January, two thousand eight: *Provided*, That  
8    at least seventy percent of all eligible emergency medical  
9    services officers and at least eighty-five percent of the  
10   eligible emergency medical services officers who are  
11   currently active members of the Public Employees  
12   Retirement System elect to participate in this plan by the  
13   thirty-first day of December, two thousand seven. If this  
14   level of participation is not reached, then all of the provisions  
15   of this article are void and of no force and effect. All business  
16   of the system shall be transacted in the name of the West  
17   Virginia Emergency Medical Services Retirement System.  
18   The board shall specify and adopt all actuarial assumptions  
19   for the plan at its first meeting of every calendar year or as  
20   soon thereafter as may be practicable, which assumptions  
21   shall become part of the plan.

**§16-5V-5. Article to be liberally construed; supplements  
federal social security; federal qualification  
requirements.**

1           (a) The provisions of this article shall be liberally  
2    construed so as to provide a general retirement system for  
3    emergency medical services officers eligible to retire under  
4    the provisions of this plan. Nothing in this article may be  
5    construed to permit a county to substitute this plan for federal  
6    social security now in force in West Virginia.

7           (b) The board shall administer the plan in accordance  
8    with its terms and may construe the terms and determine all  
9    questions arising in connection with the administration,  
10   interpretation and application of the plan. The board may sue

11 and be sued, contract and be contracted with and conduct all  
12 the business of the system in the name of the plan. The board  
13 may employ those persons it considers necessary or desirable  
14 to administer the plan. The board shall administer the plan  
15 for the exclusive benefit of the members and their  
16 beneficiaries subject to the specific provisions of the plan.

17 (c) The plan is intended to meet the federal qualification  
18 requirements of Section 401(a) and related sections of the  
19 Internal Revenue Code as applicable to governmental plans.  
20 Notwithstanding any other provision of state law, the board  
21 shall administer the plan to fulfill this intent for the exclusive  
22 benefit of the members and their beneficiaries. Any  
23 provision of this article referencing or relating to these  
24 federal qualification requirements is effective as of the date  
25 required by federal law. The board may propose rules for  
26 promulgation and amend or repeal conflicting rules in  
27 accordance with the authority granted to the board pursuant  
28 to section one, article ten-d of chapter five of this code to  
29 assure compliance with the requirements of this section.

#### **§16-5V-6. Members.**

1 (a) Any emergency medical services officer first  
2 employed by a county or political subdivision in covered  
3 employment after the effective date of this article shall be a  
4 member of this retirement system and plan and upon such  
5 membership does not qualify for membership in any other  
6 retirement system administered by the board, so long as he or  
7 she remains employed in covered employment.

8 (b) Any emergency medical services officer employed in  
9 covered employment by an employer which is currently a  
10 participating public employer of the Public Employees  
11 Retirement System shall notify in writing both the county  
12 commission in the county or officials in their political  
13 subdivision in which he or she is employed and the board of  
14 his or her desire to become a member of the plan by the  
15 thirty-first day of December, two thousand seven. Any  
16 emergency medical services officer who elects to become a  
17 member of the plan ceases to be a member or have any credit

18 for covered employment in any other retirement system  
19 administered by the board and shall continue to be ineligible  
20 for membership in any other retirement system administered  
21 by the board so long as the emergency medical services  
22 officer remains employed in covered employment by an  
23 employer which is currently a participating public employer  
24 of the Public Employees Retirement System in this plan:  
25 *Provided*, That any emergency medical services officer who  
26 does not affirmatively elect to become a member of the plan  
27 continues to be eligible for any other retirement system as is  
28 from time to time offered to other county employees but is  
29 ineligible for this plan regardless of any subsequent  
30 termination of employment and rehire.

31 (c) Any emergency medical services officer who was  
32 employed as an emergency medical services officer prior to  
33 the effective date, but was not employed on the effective date  
34 of this article, shall become a member upon rehire as an  
35 emergency medical services officer. For purposes of this  
36 section, the member's years of service and credited service  
37 prior to the effective date shall not be counted for any  
38 purposes under this plan unless: (1) The emergency medical  
39 services officer has not received the return of his or her  
40 accumulated contributions in the Public Employees  
41 Retirement Fund System pursuant to section thirty, article  
42 ten, chapter five of this code; or (2) the accumulated  
43 contributions returned to the member from the Public  
44 Employees Retirement System have been repaid pursuant to  
45 this article. If the conditions of subdivision (1) or (2) of this  
46 subsection are met, all years of the emergency medical  
47 services officer's covered employment shall be counted as  
48 years of service for the purposes of this article. Each  
49 transferring emergency medical services officer shall be  
50 given credited service for the purposes of this article for all  
51 covered employment transferred from the Public Employees  
52 Retirement System regardless of whether the credited service  
53 (as that term is defined in section two, article ten, chapter five  
54 of this code) was earned as an emergency medical services  
55 officer. All service in the Public Employees Retirement  
56 System accrued by a transferring emergency medical services  
57 officer shall be transferred into the plan created by this article

58 and the transferring emergency medical services officer shall  
 59 be given the same credit for the purposes of this article for all  
 60 covered service which is transferred from the Public  
 61 Employees Retirement System as that transferring emergency  
 62 medical services officer would have received from the Public  
 63 Employees Retirement System if the transfer had not  
 64 occurred. In connection with each emergency medical  
 65 services officer receiving credit for prior employment  
 66 provided in this subsection, a transfer from Public Employees  
 67 Retirement System to this plan shall be made pursuant to the  
 68 procedures described in this article.

69 (d) Once made, the election made under this section is  
 70 irrevocable. All emergency medical services officers  
 71 employed by an employer which is a participating public  
 72 employer of the Public Employees Retirement System after  
 73 the effective date and emergency medical services officers  
 74 electing to become members as described in this section shall  
 75 be members as a condition of employment and shall make the  
 76 contributions required by this article.

77 (e) Notwithstanding any other provisions of this article,  
 78 any individual who is a leased employee is not eligible to  
 79 participate in the plan. For purposes of this plan, a “leased  
 80 employee” means any individual who performs services as an  
 81 independent contractor or pursuant to an agreement with an  
 82 employee leasing organization or similar organization. If a  
 83 question arises regarding the status of an individual as a  
 84 leased employee, the board has final power to decide the  
 85 question.

**§16-5V-7. Creation of Fund; investments.**

1 (a) There is hereby created the “West Virginia  
 2 Emergency Medical Services Retirement Fund” for the  
 3 benefit of the members of the retirement system created  
 4 pursuant to this article and the dependents of any deceased or  
 5 retired member of the system.

6 (b) All moneys paid into and accumulated in the fund,  
 7 except amounts designated by the board for payment of

8 benefits as provided in this article, shall be held in trust and  
9 invested in the consolidated pensions fund administered by  
10 the West Virginia Investment Management Board as  
11 provided by law.

**§16-5V-8. Members' contributions; employer contributions.**

1 There shall be deducted from the monthly salary of each  
2 member and paid into the fund an amount equal to eight and  
3 one-half percent of his or her monthly salary. Any active  
4 member who has concurrent employment in an additional job  
5 or jobs and such additional employment requires the  
6 emergency medical services officer to be a member of  
7 another retirement system which is administered by the  
8 Consolidated Public Retirement Board pursuant to article  
9 ten-d, chapter five of this code shall contribute to the fund the  
10 sum of eight and one-half percent of his or her monthly  
11 salary earned as an emergency medical services officer as  
12 well as the sum of eight and one-half percent of his or her  
13 monthly salary earned from any additional employment  
14 which additional employment requires the emergency  
15 medical services officer to be a member of another retirement  
16 system which is administered by the Consolidated Public  
17 Retirement Board pursuant to article ten-d, chapter five of  
18 this code. An additional ten and one-half percent of the  
19 monthly salary of each member shall be paid to the fund by  
20 the concurrent employer by which the member is employed.  
21 All required deposits shall be remitted to the board no later  
22 than fifteen days following the end of the calendar month for  
23 which the deposits are required. If the board upon the  
24 recommendation of the board actuary finds that the benefits  
25 provided by this article can be actuarially funded with a  
26 lesser contribution, then the board shall reduce the required  
27 member and employer contributions proportionally.

**§16-5V-9. Transfer from Public Employees Retirement System.**

1 (a) The Consolidated Retirement Board shall, within one  
2 hundred eighty days of the effective date of the transfer of an  
3 emergency medical services officer from the Public  
4 Employees Retirement System to the plan, transfer assets

5 from the Public Employees Retirement System Trust Fund  
6 into the West Virginia Emergency Medical Services Trust  
7 Fund.

8 (b) The amount of assets to be transferred for each  
9 transferring emergency medical services officer shall be  
10 computed as of the first day of January, two thousand eight,  
11 using the first day of July, two thousand seven, actuarial  
12 valuation of the Public Employees Retirement System, and  
13 updated with seven and one-half percent annual interest to  
14 the date of the actual asset transfer. The market value of the  
15 assets of the transferring emergency medical services officer  
16 in the Public Employees Retirement System shall be  
17 determined as of the end of the month preceding the actual  
18 transfer. To determine the computation of the asset share to  
19 be transferred the board shall:

20 (1) Compute the market value of the Public Employees  
21 Retirement System assets as of the first day of July, two  
22 thousand seven actuarial valuation date, under the actuarial  
23 valuation approved by the board;

24 (2) Compute the actuarial accrued liabilities for all Public  
25 Employees Retirement System retirees, beneficiaries,  
26 disabled retirees and terminated inactive members as of the  
27 first day of July, two thousand seven actuarial valuation date;

28 (3) Compute the market value of active member assets in  
29 the Public Employees Retirement System as of the first day  
30 of July, two thousand seven by reducing the assets value  
31 under subdivision one by the inactive liabilities under  
32 subdivision (2) of this subsection;

33 (4) Compute the actuarial accrued liability for all active  
34 Public Employees Retirement System members as of the first  
35 day of July, two thousand seven actuarial valuation date  
36 approved by the board;

37 (5) Compute the funded percentage of the active  
38 members' actuarial accrued liabilities under the Public  
39 Employees Retirement System as of the first day of July, two

40 thousand seven by dividing the active members' market value  
41 of assets under subdivision three by the active members'  
42 actuarial accrued liabilities under subdivision (4) of this  
43 subsection;

44 (6) Compute the actuarial accrued liabilities under the  
45 Public Employees Retirement System as of the first day of  
46 July, two thousand seven for active emergency medical  
47 services officers transferring to the Emergency Medical  
48 Services Retirement System;

49 (7) Determine the assets to be transferred from the Public  
50 Employees Retirement System to the Emergency Medical  
51 Services Retirement System by multiplying the active  
52 members' funded percentage determined under subdivision  
53 (5) of this subsection by the transferring active members'  
54 actuarial accrued liabilities under the Public Employees  
55 Retirement System under subdivision (6) of this subsection  
56 and adjusting such asset transfer amount by interest at seven  
57 and five-tenths percent for the period from the calculation  
58 date of the first day of July, two thousand seven through the  
59 first day of the month in which the asset transfer is to be  
60 completed.

61 (c) Once an Emergency Medical Services Officer has  
62 elected to transfer from the Public Employees Retirement  
63 System, transfer of that amount as calculated in accordance  
64 with the provisions of subsection (b) of this section by the  
65 Public Employees Retirement System shall operate as a  
66 complete bar to any further liability to the Public Employees  
67 Retirement System, and constitutes an agreement whereby  
68 the transferring emergency medical services officer forever  
69 indemnifies and holds harmless the Public Employees  
70 Retirement System from providing him or her any form of  
71 retirement benefit whatsoever until such time as that  
72 emergency medical services officer obtains other  
73 employment which would make him or her eligible to reenter  
74 the Public Employees Retirement System with no credit  
75 whatsoever for the amounts transferred to the Emergency  
76 Medical Services Retirement System.

77 (d) Eligible emergency medical services officers that  
78 transfer from plans other than the Public Employees  
79 Retirement System shall have service recognized under this  
80 plan through the purchase of the service through payment by  
81 the member of sixty percent of the actuarial accrued liabilities  
82 which would result if the service is fully credited under the  
83 Emergency Medical Services Retirement System. The  
84 purchase of the service must begin within twelve months of  
85 the effective date and full payment must be made within sixty  
86 months by either equal monthly or a one time lump sum  
87 payment.

**§16-5V-10. Notice requirements; test case.**

1 (a) Each county commission or political subdivision shall  
2 prepare a written notice to be delivered to each emergency  
3 medical services officer employed prior to the first day of  
4 July, two thousand seven. This notice shall clearly and  
5 accurately explain the benefits, financial implications and  
6 consequences to an emergency medical services officer of  
7 electing to participate in the retirement plan created in this  
8 article, including the consequences and financial implications  
9 in regard to the benefits under the Public Employees  
10 Insurance Plan as set forth in this code for those emergency  
11 medical services officers employed by a county commission  
12 or political subdivision which participates in that insurance  
13 plan. This notice shall be distributed to each emergency  
14 medical services officer and the county or political  
15 subdivision shall obtain a signed receipt from each  
16 emergency medical services officer acknowledging that the  
17 emergency medical services officer was provided a copy of  
18 the notice required in this subsection. If an emergency  
19 medical services officer makes the election provided in  
20 section six of this article, he or she shall be considered to  
21 have made a voluntary, informed decision in regard to the  
22 election to participate in the retirement system created in this  
23 article.

24 (b) Nothing in this section may be construed to alter,  
25 affect or change any of the rights and benefits of any  
26 emergency medical services officer who has insurance

27 coverage under article sixteen, chapter five of this code as a  
28 result of being a spouse or dependant of a participant who is  
29 the primary insured under article sixteen, chapter five of this  
30 code.

31 (c) Nothing contained in this section may be construed to  
32 affect or pertain to any life insurance coverage under article  
33 sixteen, chapter five of this code.

**§16-5V-11. Retirement; commencement of benefits.**

1 (a) Except for duty disability retirement, no member may  
2 retire before the first day of January, two thousand eleven.

3 (b) A member may retire and commence to receive  
4 retirement income payments on the first day of the calendar  
5 month following written application for his or her voluntary  
6 petition for retirement coincident with or next following the  
7 later of the date the member ceases employment, or the date  
8 the member attains early or normal retirement age, in an  
9 amount as provided under this article: *Provided*, That  
10 retirement income payments under this plan are subject to the  
11 provisions of this article. Upon receipt of the petition, the  
12 board shall promptly provide the member with an explanation  
13 of his or her optional forms of retirement benefits and upon  
14 receipt of properly executed forms from the member, the  
15 board shall process member's request for and commence  
16 payments as soon as administratively feasible.

**§16-5V-12. Federal law maximum benefit limitations.**

1 Notwithstanding any other provision of this article or  
2 state law, the board shall administer the retirement system in  
3 compliance with the limitations of Section 415 of the Internal  
4 Revenue Code and regulations under that section to the  
5 extent applicable to governmental plans so that no annuity or  
6 other benefit provided under this system shall exceed those  
7 limitations. The extent to which any annuity or other benefit  
8 payable under this retirement system shall be reduced as  
9 compared with the extent to which an annuity, contributions  
10 or other benefits under any other defined benefit plans or

11 defined contribution plans required to be taken into  
12 consideration under Section 415 of the Internal Revenue  
13 Code shall be reduced, shall be determined by the board in a  
14 manner that maximizes the aggregate benefits payable to the  
15 member. If the reduction is under this retirement system, the  
16 board shall advise affected members of any additional  
17 limitation on the annuities required by this section.

**§16-5V-13. Federal law minimum required distributions.**

1 The requirements of this section apply to any distribution  
2 of a member's or beneficiary's interest and take precedence  
3 over any inconsistent provisions of this plan. This section  
4 applies to plan years beginning after the thirty-first day of  
5 December, one thousand nine hundred eighty-six.  
6 Notwithstanding anything in the plan to the contrary, the  
7 payment of benefits under this article shall be determined and  
8 made in accordance with Section 401(a)(9) of the Internal  
9 Revenue Code and its regulations. For this purpose, the  
10 following provisions apply:

11 (a) The payment of benefits under the plan to any  
12 member shall be distributed to him or her not later than the  
13 required beginning date, or be distributed to him or her  
14 commencing not later than the required beginning date, in  
15 accordance with regulations prescribed under Section  
16 401(a)(9) of the Internal Revenue Code, over the life of the  
17 member or over the lives of the member and his or her  
18 beneficiary or over a period not extending beyond the life  
19 expectancy of the member and his or her beneficiary.

20 (b) If a member dies after distribution to him or her has  
21 commenced pursuant to this section but before his or her  
22 entire interest in the plan has been distributed, then the  
23 remaining portion of that interest shall be distributed at least  
24 as rapidly as under the method of distribution being used at  
25 the date of his or her death.

26 (c) If a member dies before distribution to him or her has  
27 commenced, then his or her entire interest in the plan shall be  
28 distributed by the thirty-first day of December of the calendar

29 year containing the fifth anniversary of the member's death,  
30 except as follows:

31 (1) If a member's interest is payable to a beneficiary,  
32 distributions may be made over the life of that beneficiary or  
33 over a period certain not greater than the life expectancy of  
34 the beneficiary, commencing on or before the thirty-first of  
35 December of the calendar year immediately following the  
36 calendar year in which the member died; or

37 (2) If the member's beneficiary is the surviving spouse,  
38 the date distributions are required to begin shall be no later  
39 than the later of:

40 (A) The thirty-first day of December of the calendar year  
41 in which the member would have attained age seventy and  
42 one-half; or

43 (B) The earlier of: (i) The thirty-first day of December of  
44 the calendar year following the calendar year in which the  
45 member died; or (ii) the thirty-first day of December of the  
46 calendar year following the calendar year in which the spouse  
47 died.

#### **§16-5V-14. Direct rollovers.**

1 (a) This section applies to distributions made on or after  
2 the first day of January, one thousand nine hundred ninety-  
3 three. Notwithstanding any provision of this article to the  
4 contrary that would otherwise limit a distributee's election  
5 under this plan, a distributee may elect, at the time and in the  
6 manner prescribed by the board, to have any portion of an  
7 eligible rollover distribution that is equal to at least five  
8 hundred dollars paid directly to an eligible retirement plan  
9 specified by the distributee in a direct rollover. For purposes  
10 of this section, the following definitions apply:

11 (1) "Eligible rollover distribution" means any distribution  
12 of all or any portion of the balance to the credit of the  
13 distributee, except that an eligible rollover distribution does  
14 not include any of the following: (A) Any distribution that is

15 one of a series of substantially equal periodic payments not  
16 less frequently than annually made for the life or life  
17 expectancy of the distributee or the joint lives or the joint life  
18 expectancies of the distributee and the distributee's  
19 designated beneficiary, or for a specified period of ten years  
20 or more; (B) any distribution to the extent such distribution  
21 is required under Section 401(a)(9) of the Internal Revenue  
22 Code; (C) the portion of any distribution that is not  
23 includable in gross income determined without regard to the  
24 exclusion for net unrealized appreciation with respect to  
25 employer securities; (D) any hardship distribution described  
26 in Section 401(k) (2) (B) (i) (iv) of the Internal Revenue  
27 Code; and (E) any other distribution or distributions  
28 reasonably expected to total less than two hundred dollars  
29 during a year.

30 (2) "Eligible retirement plan" means an individual  
31 retirement account described in Section 408(a) of the Internal  
32 Revenue Code, an individual retirement annuity described in  
33 Section 408(b) of the Internal Revenue Code, an annuity plan  
34 described in Section 403(a) of the Internal Revenue Code or  
35 a qualified plan described in Section 401(a) of the Internal  
36 Revenue Code that accepts the distributee's eligible rollover  
37 distribution: *Provided*, That in the case of an eligible  
38 rollover distribution to the surviving spouse, an eligible  
39 retirement plan is an individual retirement account or  
40 individual retirement annuity.

41 (3) "Distributee" means an employee or former  
42 employee. In addition, the employee's or former employee's  
43 surviving spouse and the employee's or former employee's  
44 spouse or former spouse who is the alternate payee under a  
45 qualified domestic relations order, as defined in Section  
46 414(p) of the Internal Revenue Code with respect to  
47 governmental plans, are distributees with regard to the  
48 interest of the spouse or former spouse.

49 (4) "Direct rollover" means a payment by the plan to the  
50 eligible retirement plan.

**§16-5V-14a. Rollovers and transfers to purchase service credit or repay withdrawn contributions.**

1 (a) This section applies to rollovers and transfers as  
2 specified in this section made on or after the first day of  
3 January, two thousand eight. Notwithstanding any provision  
4 of this article to the contrary that would otherwise prohibit or  
5 limit rollovers and plan transfers to this system, the plan shall  
6 accept the following rollovers and plan transfers on behalf of  
7 a member solely for the purpose of purchasing permissive  
8 service credit, in whole or in part, as otherwise provided in  
9 this article or for the repayment of withdrawn or refunded  
10 contributions, in whole and in part, with respect to a previous  
11 forfeiture of service credit as otherwise provided in this  
12 article: (A) One or more rollovers within the meaning of  
13 Section 408(d)(3) of the Internal Revenue Code from an  
14 individual retirement account described in Section 408(a) of  
15 the Internal Revenue Code or from an individual retirement  
16 annuity described in Section 408(b) of the Internal Revenue  
17 Code. (B) one or more rollovers described in Section 402(c)  
18 of the Internal Revenue Code from a retirement plan that is  
19 qualified under Section 401(a) of the Internal Revenue Code  
20 or from a plan described in Section 403(b) of the Internal  
21 Revenue Code; (C) one or more rollovers described in  
22 Section 457(c)(16) of the Internal Revenue Code from a  
23 governmental plan described in Section 457 of the Internal  
24 Revenue Code; or (D) direct trustee-to-trustee transfers or  
25 rollovers from a plan that is qualified under Section 401(a) of  
26 the Internal Revenue Code, from a plan described in Section  
27 403(b) of the Internal Revenue Code or from a governmental  
28 plan described in Section 457 of the Internal Revenue Code:  
29 *Provided, That any rollovers or transfers pursuant to this*  
30 *section shall be accepted by the system only if made in cash*  
31 *or other asset permitted by the board and only in accordance*  
32 *with such policies, practices and procedures established by*  
33 *the board from time to time. For purposes of this section, the*  
34 *following definitions apply:*

35 (1) "Permissive service credit" means service credit  
36 which is permitted to be purchased under the terms of the  
37 retirement system by voluntary contributions in an amount

38 which does not exceed the amount necessary to fund the  
39 benefit attributable to the period of service for which the  
40 service credit is being purchased, all as defined in Section  
41 415(n)(3)(A) of the Internal Revenue Code.

42 (2) "Repayment of withdrawn or refunded contributions"  
43 means the payment into the retirement system of the funds  
44 required pursuant to this article for the reinstatement of  
45 service credit previously forfeited on account of any refund  
46 or withdrawal of contributions permitted in this article, as set  
47 forth in Section 415(k)(3) of the Internal Revenue Code.

48 (b) Nothing in this section may be construed as  
49 permitting rollovers or transfers into this system or any other  
50 system administered by the retirement board other than as  
51 specified in this section and no rollover or transfer shall be  
52 accepted into the system in an amount greater than the  
53 amount required for the purchase of permissive service credit  
54 or repayment of withdrawn or refunded contributions.

55 (c) Nothing in this section shall be construed as  
56 permitting the purchase of service credit or repayment of  
57 withdrawn or refunded contributions except as otherwise  
58 permitted in this article.

**§16-5V-15. Retirement credited service through member's use,  
as option, of accrued annual or sick leave days.**

1 Any member accruing annual leave or sick leave days  
2 may, after the effective date of this section, elect to use the  
3 days at the time of retirement to acquire additional credited  
4 service in this retirement system: *Provided*, That the accrued  
5 annual or sick leave may not be used to purchase health  
6 insurance under the Public Employees Insurance Agency  
7 until the member reaches the age of fifty-five. The days shall  
8 be applied on the basis of two workdays' credit granted for  
9 each one day of accrued annual or sick leave days, with each  
10 month of retirement service credit to equal twenty workdays  
11 and with any remainder of ten workdays or more to constitute  
12 a full month of additional credit and any remainder of less  
13 than ten workdays to be dropped and not used,

14 notwithstanding any provisions of the code to the contrary.  
15 The credited service shall be allowed and not considered to  
16 controvert the requirement of no more than twelve months'  
17 credited service in any year's period.

**§16-5V-16. Retirement benefits.**

1 This section provides for the adjustment of a member's  
2 accrued benefit to reflect the difference in age, in years and  
3 months, between the member's annuity starting date and the  
4 date the member attains normal retirement age. This age  
5 adjustment shall be made based upon the normal form of  
6 benefit and shall be the actuarial equivalent of the accrued  
7 benefit at the member's normal retirement age. The member  
8 shall receive the age adjusted retirement income in the  
9 normal form or in an actuarial equivalent amount in an  
10 optional form as provided under this chapter. The first day  
11 of the calendar month following the month of birth shall be  
12 used in lieu of any birth date that does not fall on the first day  
13 of a calendar month.

14 (a) *Normal retirement.* -- A member whose annuity  
15 starting date is the date the member attains normal retirement  
16 age, is entitled to his or her accrued benefit without  
17 adjustment for age at commencement. To the extent that a  
18 member's starting date is later than his or her normal  
19 retirement age, the amount of that member's retirement  
20 income benefit shall be adjusted as provided in subsection (c)  
21 of this section.

22 (b) *Early retirement.* -- A member who ceases covered  
23 employment and has attained early retirement age while in  
24 covered employment may elect in writing by completion of  
25 an application for retirement required by and submitted to the  
26 board to receive retirement income payments commencing on  
27 the first day of the month coincident with or following the  
28 date the member ceases covered employment and submits the  
29 proper application to the board. "Normal retirement age" for  
30 such a member is the first day of the calendar month  
31 coincident with or next following the month in which the  
32 member attains the age of fifty years. If the member's

33 annuity starting date is prior to the date the member attains  
34 normal retirement age, his or her accrued benefit is reduced  
35 to the actuarial equivalent benefit amount based on the years  
36 and months by which his or her annuity starting date precedes  
37 the date he or she attains normal retirement age. If the  
38 member's annuity starting date is later than the date the  
39 member attains the age of fifty years, the accrued benefit is  
40 adjusted as provided in subsection (c) of this section.

41 (c) *Late retirement.* -- A member whose annuity starting  
42 date is later than the date the member attains normal  
43 retirement age shall receive retirement income payments in  
44 the normal form which is the benefit to which he or she is  
45 entitled according to his or her accrued benefit based on his  
46 or her final average salary and credited service at the time of  
47 his or her actual retirement and following the completion of  
48 an application for retirement as required by the board.

49 (d) Retirement benefits shall be paid monthly in an  
50 amount equal to one twelfth of the retirement income  
51 payments elected and at those times established by the board.  
52 Notwithstanding any other provision of the plan, a member  
53 who is married on the annuity starting date will receive his or  
54 her retirement income payments in the form of a sixty-six and  
55 two-thirds percent joint and survivor annuity with his or her  
56 spouse unless prior to the annuity starting date the spouse  
57 waives the form of benefit.

#### **§16-5V-17. Annuity options.**

1 Prior to the effective date of retirement, but not after that  
2 date, a member may elect to receive retirement income  
3 payments in the normal form, or the actuarial equivalent of  
4 the normal form from the following options:

5 (a) *Option A-- Contingent joint and survivor annuity.* --  
6 A life annuity payable during the joint lifetime of the member  
7 and his or her beneficiary who must be a natural person with  
8 an insurable interest in the member's life. Upon the death of  
9 the member, the benefit shall continue as a life annuity to the  
10 beneficiary in an amount equal to fifty percent, sixty-six and

11 two-thirds percent, seventy-five percent or one hundred  
12 percent of the amount paid while both were living as selected  
13 by the member. If the beneficiary dies first, the monthly  
14 amount of benefits may not be reduced, but shall be paid at  
15 the amount that was in effect before the death of the  
16 beneficiary. If the retiring member is married, the spouse  
17 shall sign a waiver of benefit rights if the beneficiary is to be  
18 other than the spouse.

19 (b) *Option B -- Ten years certain and life annuity.* -- A  
20 life annuity payable during the member's lifetime but in any  
21 event for a minimum of ten years. If the member dies before  
22 the expiration of ten years, the remaining payments shall be  
23 made to a designated beneficiary, if any, or otherwise to the  
24 member's estate.

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

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

8 (b) Any member who withdraws accumulated  
9 contributions from either this plan or the Public Employees  
10 Retirement System and thereafter becomes reemployed in  
11 covered employment may not receive any credited service for  
12 the prior covered employment unless following his or her  
13 return to covered employment, the member re-deposits in the  
14 fund the amount of the accumulated contributions withdrawn  
15 from previous covered employment, together with interest on  
16 the accumulated contributions at the rate determined by the  
17 board from the date of withdrawal to the date of redeposit.  
18 Upon repayment he or she shall receive the same credit on  
19 account of his or her former covered employment as if no  
20 refund had been made. The repayment shall be made in a  
21 lump sum within sixty months of the emergency medical

22 services officer's reemployment or if later, within sixty  
23 months of the effective date of this article.

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

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

**§16-5V-19. Awards and benefits for disability -- Duty related.**

1 (a) Any member who after the effective date of this  
2 article and during covered employment: (1) Has been or  
3 becomes totally disabled by injury, illness or disease; and (2)  
4 the disability is a result of an occupational risk or hazard  
5 inherent in or peculiar to the services required of members;  
6 or (3) the disability was incurred while performing  
7 emergency medical services functions during either  
8 scheduled work hours or at any other time; and (4) in the  
9 opinion of two physicians after medical examination, one of  
10 whom shall be named by the board, the member is by reason  
11 of the disability unable to perform adequately the duties  
12 required of an emergency medical services officer, is entitled  
13 to receive and shall be paid from the fund in monthly  
14 installments during the lifetime of the member, or if sooner  
15 until the member attains normal retirement age or until the  
16 disability sooner terminates, the compensation under this  
17 section.

18 (b) If the member is totally disabled, the member shall  
19 receive ninety percent of his or her average monthly  
20 compensation for the twelve-month period preceding the  
21 member's disability, or the shorter period if the member has  
22 not worked twelve months.

23 (c) If the member remains totally disabled until attaining  
24 sixty-five years of age, the member shall then receive the  
25 retirement benefit provided in sections sixteen and seventeen  
26 of article.

**§16-5V-20. Same -- Due to other causes.**

1 (a) Any member who after the effective date of this  
2 article and during covered employment: (1) Has been or  
3 becomes totally disabled from any cause other than those set  
4 forth in section nineteen of this article and not due to vicious  
5 habits, intemperance or willful misconduct on his or her part;  
6 and (2) in the opinion of two physicians after medical  
7 examination, one of whom shall be named by the board, he  
8 or she is by reason of the disability unable to perform  
9 adequately the duties required of an emergency medical  
10 services officer, is entitled to receive and shall be paid from  
11 the fund in monthly installments during the lifetime of the  
12 member, or if sooner until the member attains normal  
13 retirement age or until the disability sooner terminates the  
14 compensation set forth in, either subsection (b) or (c) of this  
15 section.

16 (b) If the member is totally disabled, he or she shall  
17 receive sixty-six and two-thirds percent of his or her average  
18 monthly compensation for the twelve-month period  
19 preceding the disability, or the shorter period, if the member  
20 has not worked twelve months.

21 (c) If the member remains totally disabled until attaining  
22 sixty years of age, then the member shall receive the  
23 retirement benefit provided in sections sixteen and seventeen  
24 of this article.

25 (d) The board shall propose legislative rules for  
26 promulgation in accordance with the provisions of article  
27 three, chapter twenty-nine-a of this code concerning member  
28 disability payments so as to ensure that the payments do not  
29 exceed one hundred percent of the average current salary for  
30 the position last held by the member.

**§16-5V-21. Same -- Physical examinations; termination of disability.**

1       The board may require any member who has applied for  
2 or is receiving disability benefits under this article to submit  
3 to a physical examination, mental examination or both, by a  
4 physician or physicians selected or approved by the board  
5 and may cause all costs incident to the examination and  
6 approved by the board to be paid from the fund. The costs  
7 may include hospital, laboratory, X ray, medical and  
8 physicians' fees. A report of the findings of any physician  
9 shall be submitted in writing to the board for its  
10 consideration. If, from the report, independent information,  
11 or from the report and any hearing on the report, the board is  
12 of the opinion and finds that: (1) The member has become  
13 reemployed as an emergency medical services officer; (2) a  
14 physician who has examined the member has found that  
15 considering the opportunities for emergency medical services  
16 in West Virginia, the member could be so employed as an  
17 emergency medical services officer; or (3) other facts exist to  
18 demonstrate that the member is no longer totally disabled,  
19 then the disability benefits shall cease. Benefits shall cease  
20 once the member has been found to be no longer totally  
21 disabled: *Provided*, That the board shall require annual  
22 recertification.

**§16-5V-22. Prior disability.**

1       Any emergency medical services officer who became  
2 totally disabled as a result of illness or injury incurred in the  
3 line of duty prior to the effective date of this article may be  
4 a member of the plan at his or her election and is entitled to  
5 disability, death and retirement benefits under this article in  
6 lieu of any other disability, death or retirement benefits  
7 provided solely in conjunction with a retirement system of  
8 this state or his or her county of employment: *Provided*, That  
9 the emergency medical services officer would have been  
10 eligible for disability under section nineteen of this article  
11 had that section been in effect at the time of the disability.  
12 The amounts of the benefits shall be determined as if the  
13 disability first commenced after the effective date of this

14 article with monthly compensation equal to that average  
15 monthly compensation which the member was receiving in  
16 the plan year prior to the initial disability. For the purposes  
17 of this section, benefits paid pursuant to chapter twenty-three  
18 of this code are not death or retirement benefits provided  
19 solely in conjunction with a retirement system of this state or  
20 county of this state.

**§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  
2 effective date of this article while in covered employment,  
3 has died or dies by reason of injury, illness or disease  
4 resulting from an occupational risk or hazard inherent in or  
5 peculiar to the service required of members, while the  
6 member was or is engaged in the performance of his or her  
7 duties as an emergency medical services officer, or the  
8 survivor spouse of a member who dies from any cause while  
9 receiving benefits pursuant to section nineteen of this article,  
10 is entitled to receive and shall be paid from the fund benefits  
11 as determined in subsection (b) of this section: To the  
12 surviving spouse annually, in equal monthly installments  
13 during his or her lifetime an amount equal to the greater of:  
14 (1) Two thirds of the annual compensation received in the  
15 preceding twelve-month period by the deceased member; or  
16 (2) if the member dies after his or her early or normal  
17 retirement age, the monthly amount which the spouse would  
18 have received had the member retired the day before his or  
19 her death, elected a one hundred percent joint and survivor  
20 annuity with the spouse as the joint annuitant, and then died.

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

**§16-5V-24. Same -- When member dies from nonservice-connected causes.**

1 (a) If a member who has been a member for at least ten  
2 years, while in covered employment after the effective date  
3 of this article, has died or dies from any cause other than  
4 those specified in section twenty-three of this article and not  
5 due to vicious habits, intemperance or willful misconduct on  
6 his or her part, the fund shall pay annually in equal monthly  
7 installments to the surviving spouse during his or her  
8 lifetime, a sum equal to the greater of: (1) One half of the  
9 annual compensation received in the preceding twelve-month  
10 employment period by the deceased member; or (2) if the  
11 member dies after his or her early or normal retirement age,  
12 the monthly amount which the spouse would have received  
13 had the member retired the day before his or her death,  
14 elected a one hundred percent joint and survivor annuity with  
15 the spouse as the joint annuitant, and then died. Where the  
16 member is receiving disability benefits under this article at  
17 the time of his or her death, the most recent monthly  
18 compensation determined under section twenty-two of this  
19 article shall be substituted for the annual compensation in  
20 subdivision (1) of this subsection.

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

**§16-5V-25. Additional death benefits and scholarships --  
Dependent children.**

1 (a) In addition to the spouse death benefits in this article,  
2 the surviving spouse is entitled to receive and there shall be  
3 paid to the spouse one hundred dollars monthly for each  
4 dependent child.

5 (b) If the surviving spouse dies or if there is no surviving  
6 spouse, the fund shall pay monthly to each dependent child  
7 a sum equal to one hundred percent of the spouse's  
8 entitlement under this article divided by the number of  
9 dependant children. If there is neither a surviving spouse nor

10 a dependent child, the fund shall pay in equal monthly  
11 installments to the dependent parents of the deceased member  
12 during their joint lifetimes a sum equal to the amount which  
13 a surviving spouse, without children, would have received:  
14 *Provided*, That when there is only one dependent parent  
15 surviving, that parent is entitled to receive during his or her  
16 lifetime one-half the amount which both parents, if living,  
17 would have been entitled to receive.

18 (c) Any person qualifying as a dependent child under this,  
19 in addition to any other benefits due under this or other  
20 sections of this article, is entitled to receive a scholarship to  
21 be applied to the career development education of that  
22 person. This sum, up to but not exceeding six thousand  
23 dollars per year, shall be paid from the fund to any university  
24 or college in this State or to any trade or vocational school or  
25 other entity in this State approved by the board, to offset the  
26 expenses of tuition, room and board, books, fees or other  
27 costs incurred in a course of study at any of these institutions  
28 so long as the recipient makes application to the board on an  
29 approved form and under such rules as the board may  
30 provide, and maintains scholastic eligibility as defined by the  
31 institution or the board. The board may propose legislative  
32 rules for promulgation in accordance with article three,  
33 chapter twenty-nine-a of this code which define age  
34 requirements, physical and mental requirements, scholastic  
35 eligibility, disbursement methods, institutional qualifications  
36 and other requirements as necessary and not inconsistent with  
37 this section.

**§16-5V-26. Burial benefit.**

1 Any member who dies as a result of any service related  
2 illness or injury after the effective date is entitled to a lump  
3 sum burial benefit of five thousand dollars. If the member is  
4 married, the burial benefit shall be paid to the member's  
5 spouse. If the member is not married, the burial benefit shall  
6 be paid to the member's estate for the purposes of paying  
7 burial expenses, settling the member's final affairs, or both.

**§16-5V-27. Double death benefits prohibited.**

1 A surviving spouse is not entitled to receive simultaneous  
 2 death benefits under this article as a result of the death of two  
 3 or more members to whom the spouse was married. Any  
 4 spouse who becomes eligible for a subsequent death benefit  
 5 under this article while receiving a death benefit under this  
 6 article shall receive the higher benefit, but not both.

**§16-5V-28. Right to benefits not subject to execution, etc.;  
 assignments prohibited; deductions for group  
 insurance; setoffs for fraud; exception for certain  
 domestic relations orders; benefits exempt from  
 taxes.**

1 The right of a person to any benefit provided for in this  
 2 article shall not be subject to execution, attachment,  
 3 garnishment, the operation of bankruptcy or insolvency laws,  
 4 or other process whatsoever, nor shall any assignment thereof  
 5 be enforceable in any court except that the benefits or  
 6 contributions under this system shall be subject to “qualified  
 7 domestic relations orders” as that term is defined in Section  
 8 414(p) of the Internal Revenue Code as applicable to  
 9 governmental plans: *Provided*, That should a member be  
 10 covered by a group insurance or prepayment plan participated  
 11 in by a participating public employer, and should he or she be  
 12 permitted to, and elect to, continue such coverage as a  
 13 retirant, he or she may authorize the board of trustees to have  
 14 deducted from his or her annuity the payments required of  
 15 him or her to continue coverage under such group insurance  
 16 or prepayment plan: *Provided, however*, That a participating  
 17 public employer shall have the right of setoff for any claim  
 18 arising from embezzlement by, or fraud of, a member,  
 19 retirant or beneficiary. The assets of the retirement system are  
 20 hereby exempt from state, county and municipal taxes.

**§16-5V-29. Fraud; penalties; and repayment.**

1 Any person who knowingly makes any false statement or  
 2 who falsifies or permits to be falsified any record of the  
 3 retirement system in any attempt to defraud that system is  
 4 guilty of a misdemeanor and, upon conviction thereof, shall  
 5 be punished by a fine not to exceed one thousand dollars, by

6 confinement in jail not to exceed one year, or by both fine  
7 and confinement. Any increased benefit received by any  
8 person as a result of the falsification or fraud shall be  
9 returned to the fund upon demand by the board.

**§16-5V-30. Credit toward retirement for member's prior  
military service; credit toward retirement when  
member has joined armed forces in time of  
armed conflict; qualified military service.**

1 (a) Any member who has previously served on active  
2 military duty is entitled to receive additional years of service  
3 for the purpose of determining his or her years of credited  
4 service for a period equal to the active military duty not to  
5 exceed five years, subject to the following:

6 (1) That he or she has been honorably discharged from  
7 the armed forces;

8 (2) That he or she substantiates by appropriate  
9 documentation or evidence his or her period of active  
10 military duty; and

11 (3) That he or she is receiving no benefits from any other  
12 retirement system for his or her active military duty.

13 (b) In addition, any member who while in covered  
14 employment was commissioned, enlisted or inducted into the  
15 armed forces of the United States or, being a member of the  
16 reserve officers' corps, was called to active duty in the armed  
17 forces between the first day of September, one thousand nine  
18 hundred forty, and the close of hostilities in World War II, or  
19 between the twenty-seventh day of June, one thousand nine  
20 hundred fifty, and the close of the armed conflict in Korea on  
21 the twenty-seventh day of July, one thousand nine hundred  
22 fifty-three, between the first day of August, one thousand  
23 nine hundred sixty-four, and the close of the armed conflict  
24 in Vietnam, or during any other period of armed conflict by  
25 the United States whether sanctioned by a declaration of war  
26 by Congress or by executive or other order of the President,  
27 is entitled to and shall receive credited service, for a period

28 equal to the full time that he or she has or, pursuant to that  
29 commission, enlistment, induction or call, shall have served  
30 with the armed forces subject to the following:

31 (1) That he or she has been honorably discharged from  
32 the armed forces;

33 (2) That within ninety days after honorable discharge  
34 from the armed forces, he or she presented himself or herself  
35 to the county commission or other political subdivision and  
36 offered to resume service as an emergency medical services  
37 officer; and

38 (3) That he or she has made no voluntary act, whether by  
39 reenlistment, waiver of discharge, acceptance of commission  
40 or otherwise, to extend or participate in extension of the  
41 period of service with the armed forces beyond the period of  
42 service for which he or she was originally commissioned,  
43 enlisted, inducted or called.

44 (c) The total amount of service allowable under  
45 subsections (a) and (b) of this section may not exceed five  
46 years.

47 (d) Any service credit allowed under this section may be  
48 credited one time only for each emergency medical services  
49 officer, regardless of any changes in job title or  
50 responsibilities.

51 (e) Notwithstanding any provision of this section to the  
52 contrary, contributions, benefits and service credit with  
53 respect to qualified military service shall be provided in  
54 accordance with Section 414(u) of the Internal Revenue  
55 Code. For purposes of this section, "qualified military  
56 service" has the same meaning as in Section 414(u) of the  
57 Internal Revenue Code. The Retirement Board is authorized  
58 to determine all questions and make all decisions relating to  
59 this section and, pursuant to the authority granted to the  
60 board in section one, article ten-d, chapter five of this code,  
61 may promulgate rules relating to contributions, benefits and  
62 service credit to comply with Section 414(u) of the Internal  
63 Revenue Code.

**§16-5V-31. How a county commission or political subdivision becomes a participating public employer.**

1 Any county commission or political subdivision  
2 employing emergency medical services officers may by a  
3 three-fifths vote of its governing body, or by a majority vote  
4 of its electors, elect to become a participating public  
5 employer and thereby include its emergency medical services  
6 officers in the membership of the plan. The clerk or secretary  
7 of each such county commission or political subdivision  
8 electing to become a participating public employer shall  
9 certify the determination of the county commission or  
10 political subdivision to the Consolidated Public Retirement  
11 Board within ten days from and after the vote of the  
12 governing body or the canvass of votes upon such action.  
13 Once a county commission or political subdivision elects to  
14 participate in the plan, the action is final and it may not, at a  
15 later date, elect to terminate its participation in the plan.

**§16-5V-32. Effective date; report to Joint Committee on Government and Finance; special starting date for benefits.**

1 (a) The provisions of this article become effective the  
2 first day of January, two thousand eight: *Provided*, That no  
3 payout of any benefits may be made to any person prior to  
4 the first day of January, two thousand eleven: *Provided*,  
5 *however*, That members who retired due to a disability may  
6 begin receiving the benefits at the rate and in the amount  
7 specified in this article, from this fund after the thirtieth day  
8 of June, two thousand eight: *Provided further*, That until the  
9 thirtieth day of June, two thousand eight those members who  
10 retired due to a disability may draw benefits from this fund at  
11 the rate and in the amount set forth in section twenty-five,  
12 article ten, chapter five of this code.

13 (b) During the eighteen-month period before the payout  
14 of benefits begins, the Joint Committee on Government and  
15 Finance shall cause an interim study or studies to be  
16 conducted on potential effects of the implementation of this  
17 retirement system, including, but not limited to, potential  
18 funding mechanisms to provide health insurance coverage for

19 retirees in the fifty to fifty-five age group: *Provided*, That  
20 after the effective date of this provision, the Director of the  
21 Public Employees Insurance Agency shall propose a rule for  
22 legislative approval in accordance with the provisions of  
23 article three, chapter twenty-nine-a of this code governing the  
24 funding of health insurance coverage for retirees under the  
25 plan provided in this article who are in the fifty to fifty-five  
26 year age group, which rule may be filed as an emergency  
27 rule: *Provided, however*, That any rule filed as an emergency  
28 rule pursuant to this subsection shall be refiled at the earliest  
29 opportunity as a legislative rule for review and promulgation  
30 in accordance with the provisions of article three, chapter  
31 twenty-nine-a of this code.

**§16-5V-33. Limitation of county liability.**

1 No county which has timely met all of its obligations  
2 under this article is liable for any payments or contributions  
3 to the emergency medical services retirement plan which are  
4 owed to the plan by another county or counties.

**§16-5V-34. Benefits not forfeited if system terminates.**

1 If the retirement system is terminated or contributions are  
2 completely discontinued, the rights of all members to benefits  
3 accrued or contributions made to the date of the termination  
4 or discontinuance, to the extent then funded, are not forfeited.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



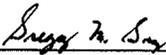
Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

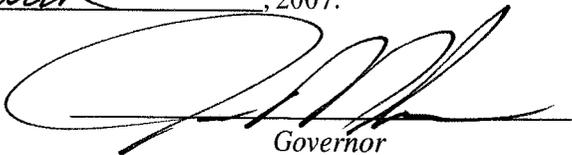


President of the Senate



Speaker of the House of Delegates

The within is approved this the 23rd  
day of March, 2007.



Governor

PRESENTED TO THE  
GOVERNOR

MAR 18 2007

Time 4:00 pm