

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4688

BY DELEGATES BARRETT, HARDY, STORCH, GRAVES,

HOUSEHOLDER, CRISS AND HOTT

[Originating in the Committee on Finance; February

24, 2022]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
2 sections, designated §16-5V-6a and §16-5V-6b, relating to authorizing county firefighters
3 to be members of the Emergency Medical Services Retirement System; providing for
4 transfer of assets pertaining to county firefighters; requiring certain computations to be
5 made by the Consolidated Public Retirement Board; and terminating liability of the Public
6 Employees Retirement System.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-6a. County Firefighter Members.

1 (a) Notwithstanding any other provision of this article to the contrary, a person employed
2 as a county firefighter may be a member of this retirement plan subject to the provisions of this
3 section. Full-time employment as a county firefighter satisfies the definition of “covered
4 employment” as defined in this article.

5 (b) Any county firefighter first employed by a county after the effective date of the revisions
6 to this article made in the 2022 legislative session, shall be a member of this retirement plan by
7 virtue of that employment and upon membership does not qualify for membership in any other
8 retirement system administered by the board, so long as he or she remains employed in covered
9 employment: *Provided*, That if a member has concurrent employment in an additional job or jobs
10 the relevant concurrent employment provisions of this code shall apply.

11 (c) Any county firefighter employed in covered employment by an employer which is
12 currently a participating public employer of the Public Employees Retirement System shall notify
13 in writing both the county commission in the county in which he or she is employed and the board
14 of his or her desire to become a member of the plan by December 31, 2022. Any county firefighter
15 who elects to become a member of the plan ceases to be a member or have any credit for covered
16 employment in any other retirement system administered by the board and shall continue to be
17 ineligible for membership in any other retirement system administered by the board so long as

18 the county firefighter remains employed in covered employment by an employer which is currently
19 a participating public employer of this plan: *Provided*, That any county firefighter who does not
20 affirmatively elect to become a member of the plan continues to be eligible for any other retirement
21 system as is, from time to time, offered to other county employees but is ineligible for this plan
22 regardless of any subsequent termination of employment and rehire as a county firefighter.

23 (d) Any county firefighter who was employed as a county firefighter prior to the effective
24 date, but was not employed on the effective date of this article, shall become a member upon
25 rehire as a county firefighter. For purposes of this section, the member's years of service and
26 credited service prior to the effective date shall not be counted for any purposes under this plan
27 unless the county firefighter has not received the return of his or her accumulated contributions in
28 the Public Employees Retirement System pursuant to §5-10-30 of this code. The member may
29 request in writing to have his or her accumulated contributions and employer contributions from
30 covered employment in the Public Employees Retirement System transferred to the plan. If the
31 conditions of this subsection are met, all years of the county firefighter's covered employment
32 shall be counted as years of service for the purposes of this article.

33 (e) Any county firefighter employed in covered employment on the effective date of this
34 article who has timely elected to transfer into this plan as provided in subsection (c) of this section
35 shall be given credited service at the time of transfer for all credited service then standing to the
36 county firefighter's service credit in the Public Employees Retirement System regardless of
37 whether the credited service, as defined in §5-10-2 of this code, was earned as a county
38 firefighter. All credited service standing to the transferring county firefighter's credit in the Public
39 Employees Retirement System at the time of transfer into this plan shall be transferred into the
40 plan created by this article and the transferring county firefighter shall be given the same credit
41 for the purposes of this article for all service transferred from the Public Employees Retirement
42 System as that transferring county firefighter would have received from the Public Employees
43 Retirement System as if the transfer had not occurred. In connection with each transferring county

44 firefighter receiving credit for prior employment as provided in this subsection, a transfer from the
45 Public Employees Retirement System to this plan shall be made pursuant to the procedures
46 described in this article: *Provided*, That any member of this plan who has elected to transfer from
47 the Public Employees Retirement System into this plan pursuant to subsection (c) of this section
48 may not, after having transferred into and becoming an active member of this plan, reinstate to
49 his or her credit in this plan any service credit relating to periods in which the member was not in
50 covered employment as a county firefighter and which service was withdrawn from the Public
51 Employees Retirement System prior to his or her elective transfer into this plan.

52 (f) Once made, the election made under this section is irrevocable. All county firefighters
53 employed by an employer which is a participating public employer of the Public Employees
54 Retirement System after the effective date and county firefighters electing to become members
55 as described in this section shall be members as a condition of employment and shall make the
56 contributions required by this article.

§16-5V-6b. Transfer of county firefighter member assets from Public Employees Retirement System.

1 (a) The Consolidated Public Retirement Board shall, within one hundred eighty days of
2 January 1, 2023, transfer assets from the Public Employees Retirement System Trust Fund into
3 the West Virginia Emergency Medical Services Trust Fund.

4 (b) The amount of assets to be transferred for each transferring county firefighter shall be
5 computed as of January 1, 2023, using July 1, 2022, actuarial valuation of the Public Employees
6 Retirement System, and updated with 7.25 percent annual interest to the date of the actual asset
7 transfer. The market value of the assets of the transferring county firefighter in the Public
8 Employees Retirement System shall be determined as of the end of the month preceding the
9 actual transfer. To determine the computation of the asset share to be transferred the board shall:

10 (1) Compute the market value of the Public Employees Retirement System assets as of
11 July 1, 2022, actuarial valuation date under the actuarial valuation approved by the board;

12 (2) Compute the actuarial accrued liabilities for all Public Employees Retirement System
13 retirees, beneficiaries, disabled retirees and terminated inactive members as of July 1, 2022,
14 actuarial valuation date;

15 (3) Compute the market value of active member assets in the Public Employees
16 Retirement System as of July 1, 2022, by reducing the assets value under subdivision (1) of this
17 subsection by the inactive liabilities under subdivision (2) of this subsection;

18 (4) Compute the actuarial accrued liability for all active Public Employees Retirement
19 System members as of July 1, 2022, actuarial valuation date approved by the board;

20 (5) Compute the funded percentage of the active members' actuarial accrued liabilities
21 under the Public Employees Retirement System as of July 1, 2022, by dividing the active
22 members' market value of assets under subdivision (3) of this subsection by the active members'
23 actuarial accrued liabilities under subdivision (4) of this subsection;

24 (6) Compute the actuarial accrued liabilities under the Public Employees Retirement
25 System as of July 1, 2022, for active emergency medical services officers transferring to the
26 Emergency Medical Services Retirement System;

27 (7) Determine the assets to be transferred from the Public Employees Retirement System
28 to the Emergency Medical Services Retirement System by multiplying the active members' funded
29 percentage determined under subdivision (5) of this subsection by the transferring active
30 members' actuarial accrued liabilities under the Public Employees Retirement System under
31 subdivision (6) of this subsection and adjusting the asset transfer amount by interest at 7.25
32 percent for the period from the calculation date of July 1, 2022, through the first day of the month
33 in which the asset transfer is to be completed.

34 (c) Once a county firefighter has elected to transfer from the Public Employees Retirement
35 System, transfer of that amount as calculated in accordance with the provisions of subsection (b)
36 of this section by the Public Employees Retirement System shall operate as a complete bar to
37 any further liability to the Public Employees Retirement System and constitutes an agreement

38 whereby the transferring county firefighter forever indemnifies and holds harmless the Public
39 Employees Retirement System from providing him or her any form of retirement benefit
40 whatsoever until that emergency medical services officer obtains other employment which would
41 make him or her eligible to reenter the Public Employees Retirement System with no credit
42 whatsoever for the amounts transferred to the Emergency Medical Services Retirement System.