

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3281

By Delegates Storch, Anderson, Kump, Marple,

Hornbuckle, E. Pritt, and Ferrell

[Introduced February 03, 2023; Referred to the

Committee on Pensions and Retirement then

Finance]

1 A BILL to amend and reenact §20-18-5 and §20-18-6 of the Code of West Virginia, 1931, as
2 amended, all relating to Natural Resource Police Officer Retirement; providing for
3 supplemental funding of the West Virginia Natural Police Officer Retirement System; and
4 providing for additional recruitment and retention opportunities of Natural Resources
5 Police Officers.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 18. WEST VIRGINIA DIVISION OF NATURAL RESOURCES POLICE
OFFICER RETIREMENT SYSTEM.**

**§20-18-5. Article to be liberally construed; supplements federal social security; federal
qualification requirements.**

1 (a) The provisions of this article shall be liberally construed to provide a general retirement
2 system for Natural Resources Police Officers eligible to retire under the provisions of this plan.
3 Nothing in this article may be construed to permit the state to substitute this plan for federal social
4 security now in force in West Virginia.

5 (b) The board shall administer the plan in accordance with its terms and may construe the
6 terms and determine all questions arising in connection with the administration, interpretation and
7 application of the plan. The board may sue and be sued, contract and be contracted with and
8 conduct all the business of the system in the name of the plan. The board may employ those
9 persons it considers necessary or desirable to administer the plan. All start-up costs to modify the
10 existing line of business computer system and all personnel salary, including benefits, shall be
11 paid by the board from funds received by the board through gifts and bequests to the fund and any
12 accretions and accumulations which may properly be paid into and become a part of the fund. The
13 board may receive gifts and bequests for purposes of paying start-up costs as set forth in this
14 subsection. The board may also receive gifts and additional contributions for the purpose of
15 supplementing the plan. The board shall administer the plan for the exclusive benefit of the

members and their beneficiaries subject to the specific provisions of the plan.

(c) The plan is intended to meet the federal qualification requirements of Section 401(a) and related sections of the Internal Revenue Code as applicable to governmental plans. Notwithstanding any other provision of state law, the board shall administer the plan to fulfill this intent for the exclusive benefit of the members and their beneficiaries. Any provision of this article referencing or relating to these federal qualification requirements shall be effective as of the date required by federal law. The board may promulgate rules and amend or repeal conflicting rules in accordance with the authority granted to the board pursuant to §5-10D-1 of this code to assure compliance with the requirements of this section.

§20-18-6. Members.

(a) Any Natural Resources Police Officer first employed in covered employment after the effective date of this article shall be a member of this retirement system and does not qualify for membership in any other retirement system administered by the board, so long as he or she remains employed in covered employment: *Provided*, That any Natural Resources Police Officer who has concurrent employment in an additional job or jobs which would require the Natural Resources Police Officer to be a member of the West Virginia Deputy Sheriff Retirement System, West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia Emergency Medical Services Retirement System shall participate in only one retirement system administered by the board, and the retirement system applicable to the concurrent employment for which the employee has the earliest date of hire shall prevail. The membership of any person in the plan ceases: (1) Upon the withdrawal of accumulated contributions after the cessation of service; (2) upon retirement; or (3) at death.

(b) Any Natural Resources Police Officer employed in covered employment on July 1, 2020, shall notify in writing both the Division of Natural Resources and the board no later than September 30, 2020, of his or her desire to become a member of the plan beginning January 2, 2021: *Provided*, That any Natural Resources Police Officer hired after July 1, 2020, but before

January 2, 2021, shall make this required notification to the division and the board no later than 30 days from receipt of the notice required by §20-18-11 of this code or September 30, 2020, whichever is later. Any Natural Resources Police Officer who elects to become a member of the plan ceases to be an active member in the Public Employees Retirement System and shall continue to be ineligible for future membership in any other retirement system administered by the board so long as the Natural Resources Police Officer remains employed in covered employment in this plan; any Natural Resources Police Officer who does not affirmatively elect to become a member of the plan continues to be eligible for any other retirement system as is from time to time offered to other state employees but is ineligible for this plan regardless of any subsequent termination of employment and rehire.

(c) Any Natural Resources Police Officer employed in covered employment on the effective date of this article, who has timely elected to transfer into this plan as provided in subsection (b) of this section, shall be given credited service at the time of transfer for all credited service then standing to the Natural Resources Police Officer service credit in the Public Employees Retirement System regardless of whether the credited service (as that term is defined in §5-10-2 of this code) was earned as a Natural Resources Police Officer. All the credited service standing to the transferring Natural Resources Police Officer's credit in the Public Employees Retirement Fund System at the time of transfer into this plan shall be transferred into the plan created by this article, and the transferring Natural Resources Police Officer shall be given the same credit for the purposes of this article for all service transferred from the Public Employees Retirement System, as that transferring Natural Resources Police Officer would have received from the Public Employees Retirement System as if the transfer had not occurred. In connection with each transferring Natural Resources Police Officer receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in §20-18-10 of this code: *Provided*, That a member of this plan who has elected to transfer from the Public Employees Retirement System

into this plan pursuant to subsection (b) of this section may not, after having transferred into and become an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods of non-Natural Resources Police Officer service which were withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(d) Any Natural Resources Police Officer who was employed as a Natural Resources Police Officer ~~prior to~~ between the effective date of this article and June 30, 2026, who ~~but was not employed as a Natural Resources Police Officer on the effective date of this article and~~ has not commenced retirement under the Public Employees Retirement System, shall become a member upon rehire as a Natural Resources Police Officer. For purposes of this subsection, the member's years of service and credited service prior to the effective date shall not be counted for any purposes under this plan unless the Natural Resources Police Officer has not received the return of his or her accumulated contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The member may request in writing within ~~one year~~ two years of first becoming a member of the plan to have his or her accumulated contributions and employer contributions from ~~covered employment~~ all credited service, as that term is defined in §5-10-2 of this code, in the Public Employees Retirement System transferred to the plan regardless of whether the credited service was earned as a Natural Resources Police Officer. If the conditions of the subsection are met, all years of the Natural Resources Police Officer's ~~covered employment~~ credited service shall be counted as years of service for the purposes of this article.

(e) Any certified law-enforcement officer who has law-enforcement service with a participating public employer in the Public Employees Retirement System who is first employed in covered employment between the effective date of this article and June 30, 2026, and who has not commenced retirement under the Public Employees Retirement System, shall be a member of this retirement system. For purposes of this subsection, the member's years of service and credited service prior to the effective date shall not be counted for any purposes under this plan unless the Natural Resources Police Officer has not received the return of his or her accumulated

69 contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The
70 member may request in writing within two years of first becoming a member of the plan to have up
71 to a maximum of three years of his or her accumulated contributions and employer contributions
72 from credited service, as that term is defined in §5-10-2 of this code, earned while performing
73 service as a certified law-enforcement officer in the Public Employees Retirement System
74 transferred to the plan. If the member has more than three years of credited service as a certified
75 law-enforcement officer in the Public Employees Retirement System, the accumulated
76 contributions and employer contributions of the first 36 months of credited service with full salary
77 as a certified law-enforcement officer shall be transferred. If the conditions of the subsection are
78 met, the maximum three years of credited service in the Public Employees Retirement System as
79 a certified law-enforcement officer shall be counted as years of service for the purposes of this
80 article.

81 (f) Any Natural Resources Police Officer who was employed as a Natural Resources
82 Police Officer prior to the effective date of this article and who was rehired as a Natural Resources
83 Police Officer on or after July 1, 2026, and who has not commenced retirement under the Public
84 Employees Retirement System, shall become a member upon rehire as a Natural Resources
85 Police Officer. For purposes of this subsection, the member's years of service and credited service
86 prior to the effective date shall not be counted for any purposes under this plan unless the Natural
87 Resources Police Officer has not received the return of his or her accumulated contributions in the
88 Public Employees Retirement System pursuant to §5-10-30 of this code. The member may
89 request in writing within one year of first becoming a member of the plan to have his or her
90 accumulated contributions and employer contributions from covered employment in the Public
91 Employees Retirement System transferred to the plan. If the conditions of the subsection are met,
92 all years of the Natural Resources Police Officer's covered employment shall be counted as years
93 of service for the purposes of this article.

94 ~~(e)~~ (g) Once made, the election provided in this section is irrevocable. All Natural
95 Resources Police Officers first employed after the effective date and Natural Resources Police
96 Officers electing to become members as described in this section shall be members as a condition
97 of employment and shall make the contributions required by §20-18-8 of this code.

98 ~~(f)~~ (h) Notwithstanding any other provisions of this article to the contrary, any individual who
99 is a leased employee is not eligible to participate in the plan. For purposes of this plan, a "leased
100 employee" means any individual who performs services as an independent contractor or pursuant
101 to an agreement with an employee leasing organization or similar organization. If a question arises
102 regarding the status of an individual as a leased employee, the board has final power to decide the
103 question. Additionally, any individual who is an Emergency Natural Resources Police Officer as
104 defined in §20-7-1(c) of this code, Special Natural Resources Police Officer as defined in §20-7-
105 1(d) of this code, Forestry Special Natural Resources Police Officer as defined in §20-7-1(e) of this
106 code, or Federal Law Enforcement Officer as defined in §20-7-1b of this code, is not eligible to
107 participate in the plan.

NOTE: The purpose of this bill is to provide supplement funding for the plan and to increase recruitment and retention of certified officers for the agency.

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