WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 623

By Senators Barrett, Hamilton, Phillips, Deeds, and Maroney

[Introduced February 14, 2023; referred  
to the Committee on Pensions; and then to the Committee on Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §16-5V-6c and §16-5V-6d, all relating to authorizing firefighters employed by the 130th and 167th Airlift Wings of the West Virginia National Guard to be members of the Emergency Medical Services Retirement System; providing for transfer of assets pertaining to firefighters employed by the 130th and 167th Airlift Wings of the West Virginia National Guard; requiring certain computations to be made by the Consolidated Public Retirement Board; and terminating liability of the Public Employees Retirement System.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-6c. Firefighters of the 130th and 167th Airlift Wings of the West Virginia National Guard Members.

(a) Notwithstanding any other provision of this article to the contrary, a person employed as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard may be a member of this retirement plan subject to the provisions of this section. Full-time employment as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard satisfies the definition of "covered employment" as defined in this article.

(b) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard first employed by the West Virginia National Guard after the effective date of the revisions to this article made in the 2022 legislative session, shall be a member of this retirement plan by virtue of that employment and upon membership does not qualify for membership in any other retirement system administered by the board, as long as he or she remains employed in covered employment: *Provided,* That if a member has concurrent employment in an additional job or jobs the relevant concurrent employment provisions of this code shall apply.

(c) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard employed in covered employment by an employer which is currently a participating public employer of the Public Employees Retirement System shall notify in writing both the West Virginia National Guard and the board of his or her desire to become a member of the plan by December 31, 2022. Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard who elects to become a member of the plan ceases to be a member or have any credit for covered employment in any other retirement system administered by the board and shall continue to be ineligible for membership in any other retirement system administered by the board as long as the firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard remains employed in covered employment by an employer which is currently a participating public employer of this plan: *Provided,* That any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard 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 employees of the West Virginia National Guard but is ineligible for this plan regardless of any subsequent termination of employment and rehire as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard.

(d) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard who was employed as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard prior to the effective date of this section, but was not employed on the effective date of this article, shall become a member upon rehire as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard. For purposes of this section, the member’s years of service and credited service prior to the effective date may not be counted for any purposes under this plan unless the firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard 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 to have his or her accumulated contributions and employer contributions from covered employment in the Public Employees Retirement System transferred to the plan. If the conditions of this subsection are met, all years of the firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard’s covered employment shall be counted as years of service for the purposes of this article.

(e) Any firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard employed in covered employment on the effective date of this article who has timely elected to transfer into this plan as provided in subsection (c) of this section shall be given credited service at the time of transfer for all credited service then standing to the firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard service credit in the Public Employees Retirement System regardless of whether the credited service, as defined in §5-10-2 of this code, was earned as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard. All credited service standing to the transferring firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard’s credit in the Public Employees Retirement System at the time of transfer into this plan shall be transferred into the plan created by this article and the transferring firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard 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 firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard would have received from the Public Employees Retirement System as if the transfer had not occurred. In connection with each transferring firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard 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 this article: *Provided,* That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to subsection (c) of this section may not, after having transferred into and becoming an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment as a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(f) Once made, the election made under this section is irrevocable. All firefighters of the 130th and 167th Airlift Wings of the West Virginia National Guard employed by an employer which is a participating public employer of the Public Employees Retirement System after the effective date and firefighters of the 130th and 167th Airlift Wings of the West Virginia National Guard electing to become members as described in this section shall be members as a condition of employment and shall make the contributions required by this article.

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

(a) The Consolidated Public Retirement Board shall, within 180 days of January 1, 2024, transfer assets from the Public Employees Retirement System Trust Fund into the West Virginia Emergency Medical Services Trust Fund.

(b) The amount of assets to be transferred for each transferring firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard shall be computed as of January 1, 2024, using July 1, 2023, actuarial valuation of the Public Employees Retirement System, and updated with 7.25 percent annual interest to the date of the actual asset transfer. The market value of the assets of the transferring firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard in the Public Employees Retirement System shall be determined as of the end of the month preceding the actual transfer. To determine the computation of the asset share to be transferred the board shall:

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

(2) Compute the actuarial accrued liabilities for all Public Employees Retirement System retirees, beneficiaries, disabled retirees and terminated inactive members as of July 1, 2023, actuarial valuation date;

(3) Compute the market value of active member assets in the Public Employees Retirement System as of July 1, 2023, by reducing the assets value under subdivision (1) of this subsection by the inactive liabilities under subdivision (2) of this subsection;

(4) Compute the actuarial accrued liability for all active Public Employees Retirement System members as of July 1, 2023, actuarial valuation date approved by the board;

(5) Compute the funded percentage of the active members’ actuarial accrued liabilities under the Public Employees Retirement System as of July 1, 2023, by dividing the active members’ market value of assets under subdivision (3) of this subsection by the active members’ actuarial accrued liabilities under subdivision (4) of this subsection;

(6) Compute the actuarial accrued liabilities under the Public Employees Retirement System as of July 1, 2023, for active emergency medical services officers transferring to the Emergency Medical Services Retirement System;

(7) Determine the assets to be transferred from the Public Employees Retirement System to the Emergency Medical Services Retirement System by multiplying the active members’ funded percentage determined under subdivision (5) of this subsection by the transferring active members’ actuarial accrued liabilities under the Public Employees Retirement System under subdivision (6) of this subsection and adjusting the asset transfer amount by interest at 7.25 percent for the period from the calculation date of July 1, 2023, through the first day of the month in which the asset transfer is to be completed.

(c) Once a firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard has elected to transfer from the Public Employees Retirement System, transfer of that amount as calculated in accordance with the provisions of subsection (b) of this section by the Public Employees Retirement System shall operate as a complete bar to any further liability to the Public Employees Retirement System and constitutes an agreement whereby the transferring firefighter of the 130th and 167th Airlift Wings of the West Virginia National Guard forever indemnifies and holds harmless the Public Employees Retirement System from providing him or her any form of retirement benefit whatsoever until that emergency medical services officer obtains other employment which would make him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever for the amounts transferred to the Emergency Medical Services Retirement System.

NOTE: The purpose of this bill is to authorize firefighters employed by the 130th and 167th Airlift Wings of the West Virginia National Guard to be members of the Emergency Medical Services Retirement System.

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