

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 874

By Senator Barrett

[Introduced March 21, 2025; referred
to the Committee on Pensions; and then to the
Committee on Finance]

1 A BILL to amend and reenact §16-5V-2 of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding a new section, designated §16-5V-6f, relating to permitting
3 current home confinement officers in this state to participate in the Emergency Medical
4 Services Retirement System.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-2.

Definitions.

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

3 (a) "Accrued benefit" means on behalf of any member two and six-tenths percent per year
4 of the member's final average salary for the first 20 years of credited service. Additionally, two
5 percent per year for 21 through 25 years and one and one-half percent per year for each year over
6 25 years will be credited with a maximum benefit of 67 percent. A member's accrued benefit may
7 not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions
8 of §16-5V-12 of this code.

9 (1) The board may, upon the recommendation of the board's actuary, increase the
10 employees' contribution rate to 10 and five-tenths percent should the funding of the plan not reach
11 70 percent funded by July 1, 2012. The board shall decrease the contribution rate to eight and one-
12 half percent once the plan funding reaches the 70 percent support objective as of any later
13 actuarial valuation date.

14 (2) Upon reaching the 75 percent actuarial funded level, as of an actuarial valuation date,
15 the board shall increase the two and six-tenths percent to two and three-quarter percent for the
16 first 20 years of credited service. The maximum benefit will also be increased from 67 percent to
17 90 percent.

18 (3) For 911 personnel with assets transferred pursuant to §16-5V-6d of this code who did
19 not elect to pay back higher past contributions with interest, "accrued benefit" means, on behalf of

the member, two percent per year of the member's final average salary for all credited service that was credited as a result of transferred assets. Additionally, two and three-quarter percent for the first 20 years of new credited service earned from date of membership in this plan will be credited. Additionally, two percent per year for 21 through 25 years of new credited service earned from date of membership in this plan and one and one-half percent per year for each year over 25 years earned from date of membership in this plan will be credited. A maximum benefit of 90 percent of a member's final average salary may be paid. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §16-5V-12 of this code.

(4) For 911 personnel with assets transferred pursuant to §16-5V-6d of this code who did elect to pay back higher past contributions, with interest, for eligible 911 service credit, "accrued benefit" means on behalf of the member two percent per year of the member's final average salary for all non-911 credited service that was credited as a result of transferred assets. Additionally, two and three-quarter percent for the first 20 years of 911 credited service will be credited. Additionally, two percent per year for 21 through 25 years of 911 credited service and one and one-half percent per year for each year over 25 years of 911 credited service will be credited. A maximum benefit of 90 percent of a member's final average salary may be paid. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of §16-5V-12 of this code.

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

(c) "Active military duty" means full-time active duty with any branch of the armed forces of the United States, including service with the National Guard or reserve military forces when the member has been called to active full-time duty and has received no compensation during the period of that duty from any board or employer other than the armed forces.

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

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of Section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based upon the nature or location of employment or services performed during the plan year plus amounts excluded under Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

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

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

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

(i) "Contributing service" or "contributory service" means service rendered by a member while employed by a participating public employer for which the member made contributions to the plan. Contributory service that was transferred in full from the Public Employees Retirement System will qualify as contributory service in this plan.

(j) "County commission or political subdivision" has the meaning ascribed to it in this code.

(k) "County firefighter" means an individual employed in full-time employment as a

72 firefighter with a county commission.

73 (l) "Covered employment" means: (1) Employment as a full-time emergency medical
74 technician, emergency medical technician/paramedic, or emergency medical services/registered
75 nurse, and the active performance of the duties required of emergency medical services officers;
76 or (2) employment as a full-time employee of a county 911 public safety answering point; or (3)
77 employment as a full-time county home confinement officer; or ~~(3)(4)~~ employment as a full-time
78 county firefighter; or ~~(4)(5)~~ the period of time during which active duties are not performed but
79 disability benefits are received under this article; or ~~(5)(6)~~ concurrent employment by an
80 emergency medical services officer, 911 personnel, home confinement officer, or county firefighter
81 in a job or jobs in addition to his or her employment as an emergency medical services officer, 911
82 personnel, home confinement officer, or county firefighter where the secondary employment
83 requires the emergency medical services officer, 911 personnel, home confinement officer, or
84 county firefighter to be a member of another retirement system which is administered by the
85 Consolidated Public Retirement Board pursuant to this code: *Provided*, That the emergency
86 medical services officer, 911 personnel, or county firefighter contributes to the fund created in this
87 article the amount specified as the member's contribution in §16-5V-8 of this code.

88 (m) "Credited service" means the sum of a member's years of service, active military duty,
89 disability service, service transferred from the Public Employees Retirement System, and accrued
90 annual and sick leave service.

91 (n) "Dependent child" means either:

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

93 (A) A natural child of the member;

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

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

97 (D) A stepchild of the member residing in the member's household at the time of the

member's death; or

(2) Any unmarried child under age 23:

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

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

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

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

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

(q) "Early retirement age" means age 45 or over and completion of 20 years of contributory service.

(r) "Effective date" means January 1, 2008.

(s) "Emergency medical services officer" means an individual employed by the state, county or other political subdivision as a medical professional who is qualified to respond to medical emergencies, aids the sick and injured and arranges or transports to medical facilities, as defined by the West Virginia Office of Emergency Medical Services. This definition is construed to include employed ambulance providers and other services such as law enforcement, rescue, or fire department personnel who primarily perform these functions and are not provided any other credited service benefits or retirement plans. These persons may hold the rank of emergency medical technician/basic, emergency medical technician/paramedic, emergency medical services/registered nurse, or others as defined by the West Virginia Office of Emergency Medical Services and the Consolidated Public Retirement Board.

(t) "Employer error" means an omission, misrepresentation, or deliberate act in violation of

relevant provisions of the West Virginia Code, the West Virginia Code of State Rules, or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Rules by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

(u) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last 10 years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly salary determined paid to the member during that period as determined under §16-5V-19 of this code multiplied by 12. Final average salary does not include any lump sum payment for unused, accrued leave of any kind or character.

(v) "Full-time employment" means permanent employment of an employee by a participating public employer in a position which normally requires 12 months per year service and requires at least 1,040 hours per year service in that position.

(w) "Fund" means the West Virginia Emergency Medical Services Retirement Fund created by this article.

(x) "Home confinement officer" means an individual employed in full-time employment as a home confinement officer with a county sheriff's office.

~~(x)~~ (y) "Hour of service" means:

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

(2) Each hour for which a member is paid or entitled to payment for covered employment during a plan year, but where no duties are performed due to vacation, holiday, illness, incapacity

including disability, layoff, jury duty, military duty, leave of absence, or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under §16-5V-19 or §16-5V-20 of this code; and

(3) Each hour for which back pay is either awarded or agreed to be paid by the employing county commission or political subdivision, irrespective of mitigation of damages. The same hours of service shall not be credited both under subdivision (1) or subdivision (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement, or payment is made.

~~(y)~~ (z) "Medical examination" means an in-person or virtual examination of a member's physical or mental health, or both, by a physician or physicians selected or approved by the board; or, at the discretion of the board, a medical record review of the member's physical or mental health, or both, by a physician selected or approved by the board.

~~(z)~~(aa) "Member" means either: (1) A person first hired as an emergency medical services officer by an employer which is a participating public employer of the Emergency Medical Services Retirement System after the effective date of this article, as defined in subsection (r) of this section; or (2) an emergency medical services officer of an employer which is a participating public employer of the Public Employees Retirement System first hired prior to the effective date and who elects to become a member pursuant to this article; or (3) a person first hired by a county 911 public safety answering center after the participating public employer elects to participate in the Emergency Medical Services Retirement System; or (4) a home confinement officer hired on or after July 1, 2025; or ~~(4)~~(5) a county firefighter hired on or after June 10, 2022; or ~~(5)~~(6) a county firefighter of an employer which is a participating public employer of the Public Employees Retirement System first hired prior to June 10, 2022, and who elects to become a member

pursuant to §16-5V-6a of this code; or ~~(6)~~(7) a person first hired by a county 911 public safety answering center prior to July 1, 2022, and who elects to become a member pursuant to §16-5V-6c of this code. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

~~(aa)~~(bb) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

~~(bb)~~(cc) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

~~(cc)~~(dd) "Normal retirement age" means the first to occur of the following:

(1) Attainment of age 50 years and the completion of 20 or more years of regular contributory service, excluding active military duty, disability service, and accrued annual and sick leave service;

(2) While still in covered employment, attainment of at least age 50 years and when the sum of current age plus regular contributory years of service equals or exceeds 70 years;

(3) While still in covered employment, attainment of at least age 60 years and completion of 10 years of regular contributory service; or

(4) Attainment of age 62 years and completion of five or more years of regular contributory service.

~~(dd)~~(ee) "Participating public employer" means: (1) Any county commission, political subdivision, or county 911 public safety answering point in the state which has elected to cover its emergency medical services officers or 911 personnel, as defined in this article, under the West Virginia Emergency Medical Services Retirement System; or (2) any county sheriff's office who

employs full-time home confinement officers; or ~~(2)~~(3) any county commission who employs county firefighters.

~~(ee)~~(ff) "Plan" means the West Virginia Emergency Medical Services Retirement System established by this article.

~~(ff)~~(gg) "Plan year" means the 12-month period commencing on January 1 of any designated year and ending the following December 31.

~~(gg)~~(hh) "Political subdivision" means a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns: *Provided*, That any public corporation established under §7-15-4 of this code is considered a political subdivision solely for the purposes of this article.

~~(hh)~~(ii) "Public Employees Retirement System" means the West Virginia Public Employees Retirement System created by West Virginia Code.

~~(ii)~~(jj) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

~~(jj)~~(kk) "Required beginning date" means April 1 of the calendar year following the later of:
(1) The calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise separates from covered employment.

~~(kk)~~(ll) "Retirant" means any member who commences an annuity payable by the plan.

~~(ll)~~(mm) "Retire" or "retirement" means a member's withdrawal from the employ of a participating public employer and the commencement of an annuity by the plan.

~~(mm)~~(nn) "Retirement income payments" means the monthly retirement income payments payable under the plan.

228 ~~(nn)~~(oo) "Spouse" means the person to whom the member is legally married on the annuity
229 starting date.

230 ~~(oo)~~(pp) "Surviving spouse" means the person to whom the member was legally married at
231 the time of the member's death and who survived the member.

232 ~~(pp)~~(qq) "Totally disabled" means a member's inability to engage in substantial gainful
233 activity by reason of any medically determined physical or mental impairment that can be expected
234 to result in death or that has lasted or can be expected to last for a continuous period of not less
235 than 12 months.

236 For purposes of this subsection:

237 (1) A member is totally disabled only if his or her physical or mental impairment or
238 impairments is so severe that he or she is not only unable to perform his or her previous work as an
239 emergency medical services officer, 911 personnel, home confinement officer, or county firefighter
240 but also cannot, considering his or her age, education, and work experience, engage in any other
241 kind of substantial gainful employment which exists in the state regardless of whether: (A) The
242 work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or
243 (C) the member would be hired if he or she applied for work. For purposes of this article,
244 substantial gainful employment is the same definition as used by the United States Social Security
245 Administration.

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

250 ~~(qq)~~(rr) "Year of service" means a member shall, except in his or her first and last years of
251 covered employment, be credited with years of service credit based upon the hours of service
252 performed as covered employment and credited to the member during the plan year based upon
253 the following schedule:

Hours of Service	Years of Service Credited
Less than 500	0
500 to 999	1/3
1000 to 1499	2/3
1500 or more	1

254

255 During a member's first and last years of covered employment, the member shall be
 256 credited with one twelfth of a year of service for each month during the plan year in which the
 257 member is credited with an hour of service for which contributions were received by the fund. A
 258 member is not entitled to credit for years of service for any time period during which he or she
 259 received disability payments under §16-5V-19 or §16-5V-20 of this code. Except as specifically
 260 excluded, years of service include covered employment prior to the effective date.

261 Years of service which are credited to a member prior to his or her receipt of accumulated
 262 contributions upon termination of employment pursuant to §16-5V-18 of this code or §5-10-30 of
 263 this code shall be disregarded for all purposes under this plan unless the member repays the
 264 accumulated contributions with interest pursuant to section §16-5V-18 of this code or has, prior to
 265 the effective date, made the repayment pursuant to §5-10-18 of this code.

266 ~~(rr)~~(ss) "911 personnel" means an individual employed in full-time employment with a
 267 county 911 public safety answering point.

§16-5V-6f. Transfer of home confinement officers assets from Public Employees

Retirement

System.

1 (a) The Consolidated Public Retirement Board shall transfer assets of home confinement
 2 officers who wish to participate in the Emergency Medical Services Retirement Act from the Public
 3 Employees Retirement System Trust Fund into the West Virginia Emergency Medical Services
 4 Trust Fund no later than December 31, 2024.

5 (b) The amount of assets to be transferred for each transferring home confinement officer
 6 shall be computed using the July 1, 2025, 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 home confinement officer 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, 2025, 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, 2025, 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, 2025, 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 home confinement 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 home confinement officer 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 home confinement officer 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.

(d) A home confinement officer who timely elected to transfer into this plan may request in writing that the Consolidated Public Retirement Board compute a quote of the amount owed for the member's transferred home confinement officer to be eligible for the 2.75 percent multiplier. The quote shall be provided to the member within 60 days of the board's receipt of the written request and the employer's verification of home confinement officer. Other Public Employees Retirement System employment is eligible for transfer, but only at the 2 percent multiplier. To determine the computation of the quote provided, the board shall:

(1) Compute the contributions made by each home confinement officer for eligible years under Public Employees Retirement System.

(2) Compute the contributions that would have been required under Emergency Medical Services Retirement System for eligible years.

(3) Compute the difference with interest at 7.25 percent that each home confinement officer would have been required to pay had he or she originally participated in Emergency Medical Services Retirement System for eligible years.

59 (4) Full reinstatement amount must be repaid no later than December 31, 2030, or prior to
60 the member's effective retirement date, whichever occurs first.

61 (f) Commencement of retirement for transferring home confinement officer may occur on or
62 after January 1, 2025.

63 (g) Any administrative costs to the board associated with this transfer shall be borne by the
64 participating public home confinement officer employers of the transferring members, in relative
65 proportion to the number of members employed.

NOTE: The purpose of this bill is to allow certain home confinement officers employed by participating county sheriff's offices to participate in 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.