

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5088**

By Delegates Hott, B. Ward, Dittman, Willis, Brooks,  
Martin, Mallow, Jennings, Parsons, Green, and  
Hanshaw (Mr. Speaker)

[By Request of The Division of Natural Resources]

[Introduced February 03, 2026; referred to the  
Committee on Finance]

1 A BILL to amend and reenact §20-18-2 and §20-18-8 of the Code of West Virginia, 1931, as  
2 amended, relating to Natural Resource Police Officer Retirement; modifying the accrued  
3 benefit of members of the West Virginia Natural Resources Police Officer Retirement  
4 System who retire after July 1, 2026; and providing for additional funding under the West  
5 Virginia Natural Police Officer Retirement System.

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

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

**§20-18-2.**

**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 one-quarter percent of the  
4 member's final average salary multiplied by the member's years of credited service: *Provided*,  
5 That members who retire after July 1, 2025, shall have an accrued benefit of two and one-half  
6 percent of the member's final average salary multiplied by the member's years of credited service:  
7 *Provided, however, That members who retire after July 1, 2026, shall have an accrued benefit of*  
8 *two and three-fourths percent of the member's final average salary multiplied by the member's*  
9 *years of credited service.* A member's accrued benefit may not exceed the limits of Section 415 of  
10 the Internal Revenue Code and is subject to the provisions of §20-18-13 of this code.

11 (b) "Accumulated contributions" means the sum of all amounts deducted from the annual  
12 compensation of a member or paid on his or her behalf pursuant to §5-10C-1 *et seq.* of this code,  
13 either pursuant to §20-18-8(a) or §5-10-29 of this code as a result of covered employment together  
14 with regular interest on the deducted amounts.

15 (c) "Active member" means a member who is active and contributing to the plan.

16 (d) "Active military duty" means full-time active duty with any branch of the armed forces of

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

20 (e) "Actuarial equivalent" means a benefit of equal value computed upon the basis of the  
21 mortality table and interest rates as set and adopted by the retirement board in accordance with  
22 the provisions of this article: *Provided*, That when used in the context of compliance with the  
23 federal maximum benefit requirements of §415 of the Internal Revenue Code, "actuarial  
24 equivalent" shall be computed using the mortality tables and interest rates required to comply with  
25 those requirements.

26 (f) "Annual compensation" means the wages paid to the member during covered  
27 employment within the meaning of §3401(a) of the Internal Revenue Code, but determined without  
28 regard to any rules that limit the remuneration included in wages based upon the nature or location  
29 of employment or services performed during the plan year plus amounts excluded under  
30 §414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances,  
31 cash or noncash fringe benefits or both, deferred compensation, and welfare benefits. Annual  
32 compensation for determining benefits during any determination period may not exceed the  
33 maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this  
34 code and §401(a)(17) of the Internal Revenue Code.

35 (g) "Annual leave service" means accrued annual leave.

36 (h) "Annuity starting date" means the first day of the first calendar month following receipt  
37 of the retirement application by the board or the required beginning date, if earlier: *Provided*, That  
38 the member has ceased covered employment and reached normal retirement age.

39 (i) "Beneficiary" means a natural person who is entitled to, or will be entitled to, an annuity  
40 or other benefit payable by the plan.

41 (j) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-  
42 1 *et seq.* of this code.

43 (k) "Bona fide separation from service upon retirement" means that a retirant has  
44 completely terminated any employment relationship with the Division of Natural Resources for a  
45 period of at least 60 consecutive days from the effective date of retirement and without a  
46 prearranged agreement to return to employment with the division. For purposes of this definition,  
47 an employment relationship includes employment in any capacity, whether on a permanent, full-  
48 time, part-time, substitute, per diem, temporary or leased employee basis.

49 (I) "Covered employment" means either: (1) Employment as a Natural Resources Police  
50 Officer and the active performance of the duties required of a Natural Resources Police Officer; (2)  
51 the period of time which active duties are not performed but disability benefits are received under  
52 §20-18-21 or §20-18-22 of this code; or (3) concurrent employment by a Natural Resources Police  
53 Officer in a job or jobs in addition to his or her employment as a Natural Resources Police Officer  
54 where the secondary employment requires the Natural Resources Police Officer to be a member  
55 of another retirement system which is administered by the Consolidated Public Retirement Board  
56 pursuant to §5-10D-1 *et seq.* of this code: *Provided*, That the Natural Resources Police Officer  
57 contributes to the fund created in §20-18-7 of this code the amount specified as the Natural  
58 Resource Police Officer's contribution in §20-18-8 of this code.

59 (m) "Credited service" means the sum of a member's years of service, active military duty,  
60 disability service, eligible annual and sick leave service.

61 (n) "Dependent child" means either:

62 (1) An unmarried person under age 18 who is:

63 (A) A natural child of the member:

64 (B) A legally adopted child of the member:

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

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

69 (2) Any unmarried child under age 23:

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

71 (B) Who was claimed as a dependent by the member for federal income tax purposes at

72 the time of the member's death; and

73 (C) Whose relationship with the member is described in subparagraph (A), (B), or (C),

74 paragraph (1) of this subdivision.

75 (o) "Dependent parent" means the father or mother of the member who was claimed as a  
76 dependent by the member for Federal Income Tax purposes at the time of the member's death.

77 (p) "Director" means Director of the Division of Natural Resources.

78 (q) "Disability service" means service credit received by a member, expressed in whole  
79 years, fractions thereof or both, equal to one half of the whole years, fractions thereof, or both,  
80 during which time a member receives disability benefits under §20-18-21 or §20-18-22 of this  
81 code.

82 (r) "Division of Natural Resources" or "division" means the West Virginia Division of Natural  
83 Resources.

84 (s) "Effective date" means January 2, 2021.

85 (t) "Employer error" means an omission, misrepresentation, or deliberate act in violation of  
86 relevant provisions of the West Virginia Code or of the West Virginia Code of State Rules or the  
87 relevant provisions of both the West Virginia Code and of the West Virginia Code of State Rules by  
88 the participating public employer that has resulted in an underpayment or overpayment of  
89 contributions required.

90 (u) "Final average salary" means the average of the highest annual compensation received  
91 for covered employment by the member during any five consecutive plan years within the  
92 member's last 10 years of service. If the member did not have annual compensation for the five full  
93 plan years preceding the member's attainment of normal retirement age and during that period the  
94 member received disability benefits under §20-18-21 or §20-18-22 of this code then "final average

95 "salary" means the average of the monthly salary determined paid to the member during that period  
96 determined as if the disability first commenced after the effective date of this article with monthly  
97 compensation equal to that average monthly compensation which the member was receiving in  
98 the plan year prior to the initial disability multiplied by 12.

99 (v) "Fund" means the West Virginia Natural Resources Police Officer Retirement Fund  
100 created pursuant to §20-18-7 of this code.

101 (w) "Hour of service" means:

102 (1) Each hour for which a member is paid;  
103 (2) Each hour for which a member is paid but where no duties are performed due to  
104 vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of  
105 absence, or any combination thereof, and without regard to whether the employment relationship  
106 has terminated. Hours under this paragraph shall be calculated and credited pursuant to West  
107 Virginia Division of Labor rules. A member will not be credited with any hours of service for any  
108 period of time he or she is receiving benefits under §20-18-21 or §20-18-22 of this code; and

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

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

118 (y) "Member" means a person first hired as a Natural Resources Police Officer, as defined  
119 in subsection (aa) of this section, on or after January 2, 2021, or a Natural Resources Police  
120 Officer first hired prior to the effective date and who elects to become a member pursuant to § 20-

121 18-6 of this code. A member shall remain a member until the benefits to which he or she is entitled  
122 under this article are paid or forfeited or until cessation of membership pursuant to §20-18-6 of this  
123 code.

124 (z) "Monthly salary" means the portion of a member's gross annual compensation which is  
125 paid to him or her per month.

126 (aa) "Natural Resources Police Officer" means any person regularly employed in the  
127 service of the division as a law-enforcement officer on or after the effective date of this article, and  
128 who is eligible to participate in the fund. The term shall not include Emergency Natural Resources  
129 Police Officers as defined in §20-7-1(c) of this code, Special Natural Resources Police Officers as  
130 defined in §20-7-1(d) of this code, Forestry Special Natural Resources Police Officers as defined  
131 in §20-7-1(e) of this code, or Federal Law Enforcement Officer as defined in §20-7-1b of this code.

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

138 (cc) "Normal retirement age" means the first to occur of the following: (1) Attainment of age  
139 55 years and the completion of 15 or more years of service; (2) while still in covered employment,  
140 attainment of at least age 55 years, and when the sum of current age plus years of service equals  
141 or exceeds 70 years; or (3) attainment of at least age 62 years, and completion of 10 years of  
142 service: *Provided*, That any member shall in qualifying for retirement pursuant to this article have  
143 10 or more years of service, all of which years shall be actual, contributory ones.

144 (dd) "Partially disabled" means a member's inability to engage in the duties of a Natural  
145 Resources Police Officer by reason of any medically determinable physical or mental impairment  
146 that can be expected to result in death or that has lasted or can be expected to last for a

147 continuous period of not less than 12 months. A member may be determined partially disabled for  
148 the purposes of this article and maintain the ability to engage in other gainful employment which  
149 exists within the state but which ability would not enable him or her to earn an amount at least  
150 equal to two thirds of the average annual compensation earned by all active members of this plan  
151 during the plan year ending as of the most recent June 30, as of which plan data has been  
152 assembled and used for the actuarial valuation of the plan.

153 (ee) "Plan" means the West Virginia Natural Resources Police Officers Retirement System  
154 established by this article.

155 (ff) "Plan year" means the 12-month period commencing on July 1 of any designated year  
156 and ending the following June 30.

157 (gg) "Public Employees Retirement System" means the West Virginia Public Employees  
158 Retirement System created by §5-10-1 *et seq.* of this code.

159 (hh) "Qualified public safety employee" means any employee of the division who provides  
160 police protection, fire-fighting services, or emergency medical services for any area within the  
161 jurisdiction of the state or political subdivision, or such other meaning given to the term by §  
162 72(t)(10)(B) of the Internal Revenue Code or by Treasury Regulation §1.401(a)-1(b)(2)(v) as they  
163 may be amended from time to time.

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

166 (jj) "Required beginning date" means April 1 of the calendar year following the later of: (1)  
167 the calendar year in which the member attains the applicable age as set forth in this paragraph; or

168 (2) The calendar year in which he or she retires or otherwise separates from covered  
169 employment.

170 The applicable age is:

171 (A) Seventy-two, if the individual attains age 72 prior to January 1, 2023;

172 (B) Seventy-three, if the individual attains age 72 after December 31, 2022, and attains age

173 73 before January 1, 2033; or

174 (C) Seventy-five, if the individual attains age 74 after December 31, 2032; provided that the  
175 applicable age shall be determined in accordance with the provisions of § 401(a)(9) of the Internal  
176 Revenue Code and the Treasury Regulations thereunder, as the same may be amended from time  
177 to time.

178 (kk) "Retirant" means any member who commences an annuity payable by the retirement  
179 system.

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

182 (mm) "Retirement income payments" means the annual retirement income payments  
183 payable under the plan.

184 (nn) "Substantial gainful employment" or "gainful employment" means employment in  
185 which an individual may earn up to an amount that is determined by the United States Social  
186 Security Administration as substantial gainful activity and still receive total disability benefits.

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

189 (pp) "Totally disabled" means a member's inability to engage in substantial gainful activity  
190 by reason of any medically determined physical or mental impairment that can be expected to  
191 result in death or that has lasted or can be expected to last for a continuous period of not less than  
192 12 months. For purposes of this subdivision:

193 (1) A member is totally disabled only if his or her physical or mental impairment or  
194 impairments are so severe that he or she is not only unable to perform his or her previous work as  
195 a Natural Resources Police Officer but also cannot, considering his or her age, education, and  
196 work experience, engage in any other kind of substantial gainful employment which exists in the  
197 state regardless of whether: (A) The work exists in the immediate area in which the member lives;  
198 (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work.

199 (2) "Physical or mental impairment" is an impairment that results from an anatomical,  
200 physiological, or psychological abnormality that is demonstrated by medically accepted clinical  
201 and laboratory diagnostic techniques. A member's receipt of Social Security disability benefits  
202 creates a rebuttable presumption that the member is totally disabled for purposes of this plan.  
203 Substantial gainful employment rebuts the presumption of total disability.

204 (qq) Year of service. — A member shall, except in his or her first and last years of covered  
205 employment, or within the plan year of the effective date, be credited with year of service credit,  
206 based upon the hours of service performed as covered employment and credited to the member  
207 during the plan year based upon the following schedule:

208 Hours of Service Years of Service Credited

209 Less than 500 0

210 500 to 999 1/3

211 1,000 to 1,499 2/3

212 1,500 or more 1

213 During a member's first and last years of covered employment or within the plan year of the  
214 effective date, the member shall be credited with one-twelfth of a year of service for each month  
215 during the plan year in which the member is credited with an hour of service. A member is not  
216 entitled to credit for years of service for any time period during which he or she received disability  
217 payments under §20-18-21 or §20-18-22 of this code. Except as specifically excluded, years of  
218 service include covered employment prior to the effective date. Years of service which are credited  
219 to a member prior to his or her receipt of accumulated contributions upon termination of  
220 employment pursuant to §20-18-20 or §5-10-30 of this code, shall be disregarded for all purposes  
221 under this plan unless the member repays the accumulated contributions with interest pursuant to  
222 §20-18-20 of this code or had prior to the effective date made the repayment pursuant to §5-10-18  
223 of this code.

## §20-18-8. Members' contributions; employer contributions.

(a) There shall be deducted from the monthly salary of each member and paid into the fund an amount equal to nine and one-half percent of his or her monthly salary.

(b) An amount equal to an additional percentage of the monthly salary of each member  
paid to the fund by the employer as annually reviewed and actuarially set by the board.

(c) If the board finds that the benefits provided by this article can be actuarially funded with a lesser contribution, then the board shall reduce the required member or employer contributions or both.

The sums withheld each pay date shall be paid to the fund no later than 15 days following the end of the pay date.

(d) Any active member who has concurrent employment in an additional job or jobs and the

10 additional employment requires the Natural Resources Police Officer to be a member of another  
11 retirement system which is administered by the Consolidated Public Retirement Board pursuant to  
12 §5-10D-1 *et seq.* of this code shall make an additional contribution to the fund of nine and one-half  
13 percent of his or her monthly salary earned from any additional employment which requires the  
14 Natural Resources Police Officer to be a member of another retirement system which is  
15 administered by the Consolidated Public Retirement Board pursuant to §5-10D-1 *et seq.* of this  
16 code. An additional employer contribution shall be paid to the fund by the concurrent employer for  
17 which the member is employed in an amount determined by the board. If the board finds that the  
18 benefits provided by this article can be funded with a lesser contribution, then the board shall  
19 reduce the required member, or employer contributions or both. The sums withheld each calendar  
20 month shall be paid to the fund no later than 15 days following the end of the calendar month.

21        (e) Beginning the plan year commencing July 1, 2026, the division shall make a one-time  
22        payment of \$4,250,000 to the fund, in addition to the contribution requirement in subsection (b)  
23        above, the payment shall be made no later than July 31<sup>st</sup> of that year. If the board finds that an  
24        amount lower than the one-time payment will achieve 100% or greater funding in the plan year, the  
25        board may reduce the payment amount and notify the division accordingly.

NOTE: The purpose of this bill is to increase the West Virginia Natural Resources Police Officer Retirement System accrued benefit for members who retire after July 1, 2026, and to provide funding for the benefit,

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