WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

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)

[Originating in the Committee on Finance, February 26, 2026]

A BILL to amend and reenact §20-18-2 and §20-18-8 of the Code of West Virginia, 1931, as amended, relating to Natural Resource Police Officer Retirement; modifying the accrued benefit of members of the West Virginia Natural Resources Police Officer Retirement System who retire after July 1, 2029; and providing for additional funding under the West 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.

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

(a) "Accrued benefit" means on behalf of any member two and one-quarter percent of the member's final average salary multiplied by the member's years of credited service: *Provided*, That members who retire after July 1, 2025, shall have an accrued benefit of two and one-half percent of the member's final average salary multiplied by the member's years of credited service<u>: *Provided, however*, That members who retire after July 1, 2029, shall have an accrued benefit of two and three-fourths percent of the member's final average salary multiplied by the member's years of credited service.</u> 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 §20-18-13 of this code.

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

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

(d) "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.

(e) "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 retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of §415 of the Internal Revenue Code, "actuarial equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(f) "Annual compensation" means the wages paid to the member during covered employment within the meaning of §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 §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 §401(a)(17) of the Internal Revenue Code.

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

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

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

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

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

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

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

(n) "Dependent child" means either:

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

(A) A natural child of the member;

(B) A legally adopted child of the member;

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

(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 subparagraph (A), (B), or (C), paragraph (1) of this subdivision.

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

(q) "Disability service" means service credit 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 §20-18-21 or §20-18-22 of this code.

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

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

(t) "Employer error" means an omission, misrepresentation, or deliberate act in violation of relevant provisions of the West Virginia Code or of 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. 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 §20-18-21 or §20-18-22 of this code then "final average salary" means the average of the monthly salary determined paid to the member during that period determined as if the disability first commenced after the effective date of this article with monthly compensation equal to that average monthly compensation which the member was receiving in the plan year prior to the initial disability multiplied by 12.

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

(w) "Hour of service" means:

(1) Each hour for which a member is paid;

(2) Each hour for which a member is paid 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 paragraph 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 §20-18-21 or §20-18-22 of this code; and

(3) Each hour for which back pay is either awarded or agreed to be paid by the Division of Natural Resources, irrespective of mitigation of damages. The same hours of service may not be credited both under this subdivision and subdivision (1) or (2) of this subsection. 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.

(x) "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.

(y) "Member" means a person first hired as a Natural Resources Police Officer, as defined in subsection (aa) of this section, on or after January 2, 2021, or a Natural Resources Police Officer first hired prior to the effective date and who elects to become a member pursuant to § 20-18-6 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 or until cessation of membership pursuant to §20-18-6 of this code.

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

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

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

(dd) "Partially disabled" means a member's inability to engage in the duties of a Natural Resources Police Officer by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. A member may be determined partially disabled for the purposes of this article and maintain the ability to engage in other gainful employment which exists within the state but which ability would not enable him or her to earn an amount at least equal to two thirds of the average annual compensation earned by all active members of this plan during the plan year ending as of the most recent June 30, as of which plan data has been assembled and used for the actuarial valuation of the plan.

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

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

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

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

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

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

The applicable age is:

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

(B) Seventy-three, if the individual attains age 72 after December 31, 2022, and attains age 73 before January 1, 2033; or

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

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

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

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

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

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

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

(1) A member is totally disabled only if his or her physical or mental impairment or impairments are so severe that he or she is not only unable to perform his or her previous work as a Natural Resources Police Officer but also cannot, considering his or her age, education, and

work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work.

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

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

Hours of Service	Years of Service Credited
Less than 500	0
500 to 999	1/3
1,000 to 1,499	2/3
1,500 or more	1

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

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

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