

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

House Bill 5457

BY DELEGATES HOTT, B. WARD, WILLIS, BROOKS,
FLANIGAN, MARTIN, MALLOW, JENNINGS, DITTMAN,
GREEN, AND HORNBUCKLE

[Passed March 10, 2026; in effect 90 days from
passage (June 8, 2026)]

1 AN ACT to amend and reenact §15-2A-2 and §15-2A-6 of the Code of West Virginia, as amended,
2 relating to disability service credit for certain law-enforcement officers employed by the
3 West Virginia State Police; defining disability service; providing one-half service credit for
4 periods of disability service for calculating years of service for retirement purposes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-2. Definitions as used in this article, unless the context clearly requires a different meaning:

1 (1) "Accumulated contributions" means the sum of all amounts deducted from base salary,
2 together with four percent interest compounded annually.

3 (2) "Active military duty" means full-time active duty with the armed forces of the United
4 States, namely, the United States Air Force, Army, Coast Guard, Marines, Space Force, or Navy;
5 and service with the National Guard or reserve military forces of any of the armed forces when
6 the employee has been called to active full-time duty.

7 (3) "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value
8 computed upon the basis of the mortality table and interest rates as set and adopted by the
9 retirement board in accordance with the provisions of this article: *Provided*, That when used in
10 the context of compliance with the federal maximum benefit requirements of Section 415 of the
11 Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and
12 interest rates required to comply with those requirements.

13 (4) "Agency" means the West Virginia State Police.

14 (5) "Base salary" means compensation paid to an employee without regard to any
15 overtime pay.

16 (6) "Beneficiary" means a surviving spouse or other surviving beneficiary who is entitled
17 to, or will be entitled to, an annuity or other benefit payable by the fund.

18 (7) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-
19 1 *et seq.* of this code.

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

26 (9) "Dependent child" means any unmarried child or children born to or adopted by a
27 member or retirant of the fund who:

28 (A) Is under the age of 18;

29 (B) After reaching 18 years of age, continues as a full-time student in an accredited high
30 school, college, university or business or trade school until the child or children reaches the age
31 of 23 years; or

32 (C) Is financially dependent on the member or retirant by virtue of a permanent mental or
33 physical disability upon evidence satisfactory to the board.

34 (10) "Dependent parent" means the member's or retirant's parent or step-parent claimed
35 as a dependent by the member or retirant for federal income tax purposes at the time of the
36 member's or retirant's death.

37 (11) "Disability service" means service credit received by a member, expressed in months,
38 fractions thereof or both, equal to one half of the whole months, fractions thereof, or both, during
39 which time a member receives disability benefits under §15-2A-9 or §15-2A-10 of this code.

40 (12) "Employee" means any person regularly employed in the service of the agency as a
41 law-enforcement officer after March 12, 1994, and who is eligible to participate in the fund.

42 (13) "Employer error" means an omission, misrepresentation, or deliberate act in violation
43 of relevant provisions of the West Virginia Code, the West Virginia Code of State Regulations, or

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

47 (14) "Final average salary" means the average of the highest annual compensation
48 received for employment with the agency, including compensation paid for overtime service,
49 received by the employee during any five calendar years within the employee's last 10 years of
50 service: *Provided*, That annual compensation for determining benefits during any determination
51 period may not exceed the maximum compensation allowed as adjusted for cost of living in
52 accordance with §5-10D-7 of this code and § 401(a)(17) of the Internal Revenue Code.

53 (15) "Fund", "plan", "system" or "retirement system" means the West Virginia State Police
54 Retirement Fund created and established by this article.

55 (16) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

56 (17) "Law-enforcement officer" means an individual employed or otherwise engaged in
57 either a public or private position which involves the rendition of services relating to enforcement
58 of federal, state or local laws for the protection of public or private safety, including, but not limited
59 to, positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers or any
60 other law-enforcement position which requires certification, but excluding positions held by
61 elected sheriffs or appointed chiefs of police whose duties are purely administrative in nature.

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

66 (19) "Member" means any person who has contributions standing to his or her credit in
67 the fund and who has not yet entered into retirement status.

68 (20) "Month of service" means each month for which an employee is paid or entitled to
69 payment for at least one hour of service for which contributions were remitted to the fund. These
70 months shall be credited to the member for the calendar year in which the duties are performed.

71 (21) "Partially disabled" means an employee's inability, on a probable permanent basis,
72 to perform the essential duties of a law-enforcement officer by reason of any medically
73 determinable physical or mental impairment which has lasted or can be expected to last for a
74 continuous period of not less than 12 months, but which impairment does not preclude the
75 employee from engaging in other types of nonlaw-enforcement employment.

76 (22) "Physical or mental impairment" means an impairment that results from an
77 anatomical, physiological or psychological abnormality that is demonstrated by medically
78 accepted clinical and laboratory diagnostic techniques.

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

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

86 (25) "Required beginning date" means April 1 of the calendar year following the later of:

87 (1) The calendar year in which the member attains the applicable age as set forth in this
88 paragraph; or

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

91 The applicable age is:

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

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

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

99 (26) "Retirant" or "retiree" means any member who commences an annuity payable by the
100 retirement system.

101 (27) "Salary" means the compensation of an employee, excluding any overtime payments.

102 (28) "Surviving spouse" means the person to whom the member or retirant was legally
103 married at the time of the member's or retirant's death and who survived the member or retirant.

104 (29) "Totally disabled" means an employee's probable permanent inability to engage in
105 substantial gainful activity by reason of any medically determined physical or mental impairment
106 that can be expected to result in death or that has lasted or can be expected to last for a
107 continuous period of not less than 12 months. For purposes of this subdivision, an employee is
108 totally disabled only if his or her physical or mental impairments are so severe that he or she is
109 not only unable to perform his or her previous work as an employee of the agency, but also cannot,
110 considering his or her age, education and work experience, engage in any other kind of substantial
111 gainful employment which exists in the state regardless of whether: (A) The work exists in the
112 immediate area in which the employee lives; (B) a specific job vacancy exists; or (C) the employee
113 would be hired if he or she applied for work.

114 (30) "Years of service" means the months of service acquired by a member while in
115 active employment with the agency and any disability service, if applicable, divided by 12. Years
116 of service shall be calculated in years and fraction of a year from the date of active employment
117 of the member with the agency through the date of termination of employment or retirement from
118 the agency. If a member returns to active employment with the agency following a previous

119 termination of employment with the agency and the member has not received a refund of
120 contributions plus interest for the previous employment under §15-2A-8 of this code, service shall
121 be calculated separately for each period of continuous employment and years of service shall be
122 the total service for all periods of employment. Years of service shall exclude any periods of
123 employment with the agency for which a refund of contributions plus interest has been paid to the
124 member unless the employee repays the previous withdrawal, as provided in §15-2A-8 of this
125 code, to reinstate the years of service.

§15-2A-6. Retirement; commencement of benefits.

1 (a) A member may retire with full benefits upon attaining the age of 50 and completing 25
2 or more years of service or attaining the age of 52 and completing 20 years or more of service by
3 filing with the board his or her voluntary application in writing for retirement. A member who is less
4 than age 52 may retire upon completing 20 years or more of service: *Provided*, That he or she
5 will receive a reduced benefit that is of equal actuarial value to the benefit the member would
6 have received if the member deferred commencement of his or her accrued retirement benefit to
7 the age of 52.

8 (b) When the board retires a member with full benefits under the provisions of this section,
9 the board, by order in writing, shall make a determination that the member is entitled to receive
10 an annuity equal to two and three-fourths percent of his or her final average salary multiplied by
11 the number of years, and fraction of a year, of his or her service at the time of retirement: *Provided*,
12 That beginning July 1, 2019, the member is entitled to receive an annuity equal to three percent
13 of his or her final average salary multiplied by the number of years, and fraction of a year, of his
14 or her service at the time of retirement: *Provided, however*, That the amendments to this
15 subsection enacted during the regular session of the Legislature, 2019, apply to current retirants.
16 Any annuity calculated pursuant to the provisions of this subsection are subject to reduction if
17 necessary to comply with the maximum benefit provisions of Section 415 of the Internal Revenue
18 Code and §15-2A-6a of this code. The retirant's annuity shall begin the first day of the calendar

19 month following the month in which the member's application for the annuity is filed with the board
20 on or after his or her attaining age and service requirements and termination of employment.

21 (c) In no event may the provisions of §5-16-13 of this code be applied in determining
22 eligibility to retire with either a deferred or immediate commencement of benefit.

23 (d) A member shall receive service credit for any disability service.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect 90 days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2026.

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Governor