

# WEST VIRGINIA LEGISLATURE

## 2026 REGULAR SESSION

Introduced

### House Bill 5457

FISCAL  
NOTE

By Delegates Hott, B. Ward, Willis, Brooks, Flanigan,  
Martin, Mallow, Jennings, Dittman, Green, and  
Hornbuckle

[Introduced February 12, 2026; referred to the  
Committee on Finance]

1 A BILL to amend and reenact §15-2A-2 and §15-2A-6 of the Code of West Virginia, as amended,  
 2 relating providing one-half service credit for periods of disability service to count toward  
 3 retirement for State Troopers.

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

**ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

**§15-2A-2. Definitions.**

1 As used in this article, unless the context clearly requires a different meaning:

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

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

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

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

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

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

19 (7) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-  
 20 1 *et seq.* of this code.

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

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

29 (A) Is under the age of 18;

30 (B) After reaching 18 years of age, continues as a full-time student in an accredited high  
31 school, college, university or business or trade school until the child or children reaches the age of  
32 23 years; or

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

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

38 (11) "Disability service" means service credit received by a member, expressed in months,  
39 fractions thereof or both, equal to one half of the whole months, fractions thereof, or both, during  
40 which time a member receives disability benefits under §15-2-29 or §15-2-30 of this code.

41 ~~(11)~~ (12) "Employee" means any person regularly employed in the service of the agency as  
42 a law-enforcement officer after March 12, 1994, and who is eligible to participate in the fund.

43 ~~(12)~~ (13) "Employer error" means an omission, misrepresentation, or deliberate act in  
44 violation of relevant provisions of the West Virginia Code, the West Virginia Code of State  
45 Regulations, or the relevant provisions of both the West Virginia Code and the West Virginia Code  
46 of State Regulations by the participating public employer that has resulted in an underpayment or

47 overpayment of contributions required.

48       ~~(13)~~ (14) "Final average salary" means the average of the highest annual compensation  
49 received for employment with the agency, including compensation paid for overtime service,  
50 received by the employee during any five calendar years within the employee's last 10 years of  
51 service: *Provided*, That annual compensation for determining benefits during any determination  
52 period may not exceed the maximum compensation allowed as adjusted for cost of living in  
53 accordance with §5-10D-7 of this code and § 401(a)(17) of the Internal Revenue Code.

54       ~~(14)~~ (15) "Fund", "plan", "system" or "retirement system" means the West Virginia State  
55 Police Retirement Fund created and established by this article.

56       ~~(15)~~ (16) "Internal Revenue Code" means the Internal Revenue Code of 1986, as  
57 amended.

58       ~~(16)~~ (17) "Law-enforcement officer" means an individual employed or otherwise engaged  
59 in either a public or private position which involves the rendition of services relating to enforcement  
60 of federal, state or local laws for the protection of public or private safety, including, but not limited  
61 to, positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers or any  
62 other law-enforcement position which requires certification, but excluding positions held by  
63 elected sheriffs or appointed chiefs of police whose duties are purely administrative in nature.

64       ~~(17)~~ (18) "Medical examination" means an in-person or virtual examination of a member's  
65 physical or mental health, or both, by a physician or physicians selected or approved by the board;  
66 or, at the discretion of the board, a medical record review of the member's physical or mental  
67 health, or both, by a physician selected or approved by the board.

68       ~~(18)~~ (19) "Member" means any person who has contributions standing to his or her credit in  
69 the fund and who has not yet entered into retirement status.

70       ~~(19)~~ (20) "Month of service" means each month for which an employee is paid or entitled to  
71 payment for at least one hour of service for which contributions were remitted to the fund. These  
72 months shall be credited to the member for the calendar year in which the duties are performed.

73           ~~(20)~~ (21) "Partially disabled" means an employee's inability, on a probable permanent  
74 basis, to perform the essential duties of a law-enforcement officer by reason of any medically  
75 determinable physical or mental impairment which has lasted or can be expected to last for a  
76 continuous period of not less than 12 months, but which impairment does not preclude the  
77 employee from engaging in other types of nonlaw-enforcement employment.

78           ~~(24)~~ (22) "Physical or mental impairment" means an impairment that results from an  
79 anatomical, physiological or psychological abnormality that is demonstrated by medically  
80 accepted clinical and laboratory diagnostic techniques.

81           ~~(22)~~ (23) "Plan year" means the 12-month period commencing on July 1 of any designated  
82 year and ending the following June 30.

83           ~~(23)~~ (24) "Qualified public safety employee" means any employee of a participating state  
84 or political subdivision who provides police protection, fire-fighting services or emergency medical  
85 services for any area within the jurisdiction of the state or political subdivision, or such other  
86 meaning given to the term by § 72(t)(10)(B) of the Internal Revenue Code or by Treasury  
87 Regulation §1.401(a)-1(b)(2)(v) as they may be amended from time to time.

88           ~~(24)~~ (25) "Required beginning date" means April 1 of the calendar year following the later  
89 of: (1) The calendar year in which the member attains the applicable age as set forth in this  
90 paragraph; or

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

93           The applicable age is:

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

95           (B) Seventy-three, if the individual attains age 72 after December 31, 2022, and attains age  
96 73 before January 1, 2033; or

97           (C) Seventy-five, if the individual attains age 74 after December 31, 2032; provided that the  
98 applicable age shall be determined in accordance with the provisions of §401(a)(9) of the Internal

99 Revenue Code and the Treasury Regulations thereunder, as the same may be amended from time  
100 to time.

101 ~~(25)~~ (26) "Retirant" or "retiree" means any member who commences an annuity payable by  
102 the retirement system.

103 ~~(26)~~ (27) "Salary" means the compensation of an employee, excluding any overtime  
104 payments.

105 ~~(27)~~ (28) "Surviving spouse" means the person to whom the member or retirant was legally  
106 married at the time of the member's or retirant's death and who survived the member or retirant.

107 ~~(28)~~ (29) "Totally disabled" means an employee's probable permanent inability to engage  
108 in substantial gainful activity by reason of any medically determined physical or mental impairment  
109 that can be expected to result in death or that has lasted or can be expected to last for a  
110 continuous period of not less than 12 months. For purposes of this subdivision, an employee is  
111 totally disabled only if his or her physical or mental impairments are so severe that he or she is not  
112 only unable to perform his or her previous work as an employee of the agency, but also cannot,  
113 considering his or her age, education and work experience, engage in any other kind of substantial  
114 gainful employment which exists in the state regardless of whether: (A) The work exists in the  
115 immediate area in which the employee lives; (B) a specific job vacancy exists; or (C) the employee  
116 would be hired if he or she applied for work.

117 ~~(29)~~ (30) "Years of service" means the months of service acquired by a member while in  
118 active employment with the agency divided by 12. Years of service shall be calculated in years and  
119 fraction of a year from the date of active employment of the member with the agency through the  
120 date of termination of employment or retirement from the agency. If a member returns to active  
121 employment with the agency following a previous termination of employment with the agency and  
122 the member has not received a refund of contributions plus interest for the previous employment  
123 under §15-2A-8 of this code, service shall be calculated separately for each period of continuous  
124 employment and years of service shall be the total service for all periods of employment. Years of

125 service shall exclude any periods of employment with the agency for which a refund of  
126 contributions plus interest has been paid to the member unless the employee repays the previous  
127 withdrawal, as provided in §15-2A-8 of this 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 will  
5 receive a reduced benefit that is of equal actuarial value to the benefit the member would have  
6 received if the member deferred commencement of his or her accrued retirement benefit to the  
7 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 an  
10 annuity equal to two and three-fourths percent of his or her final average salary multiplied by the  
11 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 of  
13 his or her final average salary multiplied by the number of years, and fraction of a year, of his or her  
14 service at the time of retirement: *Provided, however*, That the amendments to this subsection  
15 enacted during the regular session of the Legislature, 2019, apply to current retirants. Any annuity  
16 calculated pursuant to the provisions of this subsection are subject to reduction if necessary to  
17 comply with the maximum benefit provisions of Section 415 of the Internal Revenue Code and  
18 §15-2A-6a of this code. The retirant's annuity shall begin the first day of the calendar month  
19 following the month in which the member's application for the annuity is filed with the board on or  
20 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 one half credit for time spent receiving disability service.

NOTE: The purpose of this bill is to provide one-half service credit for periods of disability service to count toward retirement for State Troopers.

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