

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5508**

By Delegates Ferrell, Brooks, and B. Ward

[Introduced February 13, 2026; referred to the  
Committee on Finance]

1 A BILL to amend and reenact §15-2A-2 of the Code of West Virginia, 1931, as amended, relating  
 2 to placing members of the Division of Protection Services under the state police B  
 3 retirement system.

*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           "Division" means the Division of Protective Services created by §15-2D-1 et seq.

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

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

47 overpayment of contributions required.

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

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

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

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

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

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

72 ~~(20)~~ "Partially disabled" means an employee's inability, on a probable permanent basis, to

73 perform the essential duties of a law-enforcement officer by reason of any medically determinable  
74 physical or mental impairment which has lasted or can be expected to last for a continuous period  
75 of not less than 12 months, but which impairment does not preclude the employee from engaging  
76 in other types of nonlaw-enforcement employment.

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

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

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

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

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

92 The applicable age is:

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

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

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

99 to time.

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

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

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

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

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

125 contributions plus interest has been paid to the member unless the employee repays the previous  
126 withdrawal, as provided in §15-2A-8 of this code, to reinstate the years of service.

NOTE: The purpose of this bill is to include members of the Division of Protection Services (Capitol Police) under the state police B 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.