

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4442

**FISCAL
NOTE**

By Delegate Sheedy

[Introduced January 16, 2026; referred to the
Committee on Finance]

1 A BILL to amend and reenact §5-10-15a, §5-10-21, and §29-6-4 of the Code of West Virginia,
2 1931, as amended, relating to retirement; and creating exemptions for Tier II employees
3 making less than \$75,000 to use annual and sick leave upon retirement and the Rule of 80;
4 and exempting employees making \$75,000 or more from classified coverage.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**§5-10-15a. Retirement credited service through member's use, as option, of accrued annual
or sick leave days.**

1 (a) Any member accruing annual leave or sick leave days may, after June 27, 1988, elect
2 to use the days at the time of retirement to acquire additional credited service in this retirement
3 system. Except as provided in subsection (b) of this section, the accrued days shall be applied on
4 the basis of two workdays credit granted for each one day of such accrued annual or sick leave
5 days, with each month of retirement service credit to equal twenty workdays and with any
6 remainder of ten workdays or more to constitute a full month of additional credit and any remainder
7 of less than 10 workdays to be dropped and not used, notwithstanding any provisions of the code
8 to the contrary, including section twelve, article sixteen of this chapter. Such credited service shall
9 be allowed and not deemed to controvert the requirement of no more than twelve months credited
10 service in any year's period.

11 (b) For those persons who first become members of the retirement system on or after July
12 1, 2015, accrued annual or sick days may not be applied to acquire additional credited service;
13 Provided, That employees hired on or after July 1, 2015, that retire making less than \$75,000 are
14 exempt.

§5-10-21. Deferred retirement and early retirement.

1 (a) Except as provided in section twenty-one-a of this article, any member who first
2 becomes a member of the retirement system before July 1, 2015, and who has five or more years
3 of credited service in force, of which at least three years are contributing service, and who leaves
4 the employ of a participating public employer prior to his or her attaining age ~~sixty years~~ 60 for any
5 reason except his or her disability retirement or death, is entitled to an annuity computed according
6 to section twenty-two of this article, as that section was in force as of the date of his or her
7 separation from the employ of a participating public employer: *Provided*, That he or she does not
8 withdraw his or her accumulated contributions from the members' deposit fund: *Provided*,
9 *however*, That on and after July 1, 2002, any person who becomes a new member of this
10 retirement system shall, in qualifying for retirement under this section, have five or more years of
11 service, all of which years shall be actual, contributory ones. His or her annuity shall begin the first
12 day of the calendar month next following the month in which his or her application for same is filed
13 with the board of trustees on or after his or her attaining age 62 years.

14 (b) Any member who qualifies for deferred retirement benefits in accordance with
15 subsection (a) of this section and has ten or more years of credited service in force and who has
16 attained age 55 as of the date of his or her separation, may, prior to the effective date of his or her
17 retirement, but not thereafter, elect to receive the actuarial equivalent of his or her deferred
18 retirement annuity as a reduced annuity commencing on the first day of any calendar month
19 between his or her date of separation and his or her attainment of age 62 years and payable
20 throughout his or her life.

21 (c) Any member who qualifies for deferred retirement benefits in accordance with
22 subsection (a) of this section and has 20 or more years of credited service in force may elect to
23 receive the actuarial equivalent of his or her deferred retirement annuity as a reduced annuity
24 commencing on the first day of any calendar month between his or her fifty-fifth birthday and his or
25 her attainment of age 62 years and payable throughout his or her life.

(d) Notwithstanding any of the other provisions of this section or of this article, except sections twenty-seven-a and twenty-seven-b of this article, and pursuant to rules promulgated by the board, and except for a person who first becomes a member of the retirement system on or after July 1, 2015, any member who has thirty or more years of credited service in force, at least three of which are contributing service, and who elects to take early retirement, which for the purposes of this subsection means retirement prior to age 60, whether an active employee or a separated employee at the time of application, is entitled to the full computation of annuity according to section twenty-two of this article, as that section was in force as of the date of retirement application, but with the reduced actuarial equivalent of the annuity the member would have received if his or her benefit had commenced at age 60 when he or she would have been entitled to full computation of benefit without any reduction.

(e) Notwithstanding any of the other provisions of this section or of this article, except sections twenty-seven-a and twenty-seven-b of this article, and except for a person who first becomes a member of the retirement system on or after July 1, 2015, any member of the retirement system may retire with full pension rights, without reduction of benefits, if he or she is at least 55 years of age and the sum of his or her age plus years of contributing service and limited credited service, as defined in section two of this article, equals or exceeds 80: *Provided*, That on and after July 1, 2011, any person who becomes a new member of this retirement system shall, in qualifying for retirement under this subsection, have five or more years of service, all of which years shall be actual, contributory ones. The member's annuity shall begin the first day of the calendar month immediately following the calendar month in which his or her application for the annuity is filed with the board. Notwithstanding the provisions of §5-10-21a of this code, the provisions of this subsection shall apply to any person hired on or after July 1, 2015, that retire making _____ less _____ than \$75,000.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 6. CIVIL SERVICE SYSTEM.**§29-6-4. Classified-exempt service; additions to classified service; exemptions.**

1 (a) The classified-exempt service includes all positions included in the classified-exempt
2 service on the effective date of this article.

3 (b) Except for the period commencing on July 1, 1992, and ending on the first Monday after
4 the second Wednesday of the following January and except for the same periods commencing in
5 the year 1996, and in each fourth year thereafter, the Governor may, by executive order, with the
6 written consent of the State Personnel Board and the appointing authority concerned, add to the
7 list of positions in the classified service, but the additions may not include any positions specifically
8 exempted from coverage as provided in this section.

9 (c) The following offices and positions are exempt from coverage under the classified
10 service:

11 (1) All judges, officers, and employees of the judiciary;

12 (2) All members, officers, and employees of the Legislature;

13 (3) All officers elected by popular vote and employees of the officer;

14 (4) All secretaries of departments and employees within the office of a secretary;

15 (5) Members of boards and commissions and heads of departments appointed by the
16 Governor or heads of departments selected by commissions or boards when expressly exempt by
17 law or board order;

18 (6) Excluding the policy-making positions in an agency, one principal assistant or deputy
19 and one private secretary for each board or commission or head of a department elected or
20 appointed by the Governor or Legislature;

21 (7) All policy-making positions, which includes newly hired Deputy Commissioners within
22 the Department of Health and Human Resources;

23 (8) Patients or inmates employed in state institutions;

(9) Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof, an executive department, or by authority of the Governor;

(10) All employees of the office of the Governor, including all employees assigned to the executive mansion;

(11) Part-time professional personnel engaged in professional services without administrative duties;

(12) Temporary employees;

(13) Members and employees of the board of trustees and board of directors or their successor agencies;

(14) Uniformed personnel of the State Police;

(15) Temporary employees in the state forests, parks, and recreational areas; and

(16) Any person hired as an attorney beginning July 1, 2022.

(17) Any employee making \$75,000 or more beginning July 1, 2026.

(d) The Legislature finds that the holding of political beliefs and party commitments consistent or compatible with those of the Governor contributes in an essential way to the effective performance of and is an appropriate requirement for occupying certain offices or positions in state government, such as the secretaries of departments and the employees within their offices, the heads of agencies appointed by the Governor and, for each such head of agency, a private secretary and one principal assistant or deputy, all employees of the office of the Governor including all employees assigned to the executive mansion, as well as any persons appointed by the Governor to fill policy-making positions, in that those offices or positions are confidential in character and require their holders to act as advisors to the Governor or the Governor's appointees, to formulate and implement the policies and goals of the Governor or the Governor's appointees, or to help the Governor or the Governor's appointees communicate with and explain their policies and views to the public, the Legislature, and the press.

50 (e) All county road supervisor positions are covered under the classified service effective
51 July 1, 1999. A person employed as a county road supervisor on the effective date of this section is
52 not required to take or pass a qualifying or competitive examination upon, or as a condition of,
53 becoming a classified service employee. All county road supervisors who become classified
54 service employees pursuant to this subsection who are severed, removed, or terminated in his or
55 her employment must be severed, removed, or terminated as if the person was a classified service
56 employee.

NOTE: The purpose of this bill is to create exemptions for Tier II employees making less than \$75,000 to use annual and sick leave upon retirement and be eligible for the Rule of 80 and to exempt employees making \$75,000 or more from classified coverage.

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