

# WEST VIRGINIA CODE: §8-22A-27

## **§8-22A-27. Credit toward retirement for member's military service; qualified military service.**

(a) Each member shall receive months of credited service for months served in active military duty not to exceed twenty-four months: Provided, That any employee may purchase as much as an additional twelve months of service for time served in active military duty that otherwise has not been credited, by paying the actuarial reserve lump sum purchase amount within three years after becoming vested.

(b) "Actuarial reserve lump sum purchase amount" means the purchase annuity rate multiplied by the purchase accrued benefit. The purchase annuity rate is the actuarial lump sum annuity factor calculated on a monthly basis based on the following actuarial assumptions: Interest rate of seven and one-half percent; mortality of the 1983 group annuity mortality table, male rates, applied on a unisex basis to all members; if purchase age is under age fifty, a deferred annuity factor with payments commencing at age fifty; and if purchase age is fifty or over, an immediate annuity factor with payments starting at the purchase age. The purchase accrued benefit is two and three-fourths percent times the purchase military service times the purchase average monthly salary. The purchase military service is the amount of military service being purchased by the employee as a fraction of a year up to a one year maximum. The purchase average monthly salary is the final average monthly salary of the employee at the beginning of the month which is three months prior to the purchase month as if the employee terminated employment on that date. The purchase month is the month in which the employee deposits the actuarial reserve lump sum purchase amount into the plan trust fund in full payment of the service being purchased. The purchase age is the attained age of the employee in years and completed months as of the first day of the purchase month.

(c) Members who are eligible to receive credited service for periods of active military duty must substantiate to the retirement board:

(1) That the member has served one or more periods of active duty as substantiated by a federal form DD-214;

(2) That the member has been honorably discharged from active military duty as substantiated by a federal form DD-214; and

(3) That the member is receiving no benefits from any other governmental retirement system, except those benefits provided by federal law, for his or her active military duty.

(d) Any service credit allowed under this section may be credited one time only for each municipal police officer or municipal firefighter, regardless of any changes in job title or responsibilities.

(e) Notwithstanding any provision of this section to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military service" has the same meaning as in Section 414(u) of the Internal Revenue Code. The retirement board is authorized to determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the board in section one, article ten-d, chapter five of this code, may promulgate rules relating to contributions, benefits and service credit to comply with Section 414(u) of the Internal Revenue Code.

(f) Any contribution under this section to purchase service for time served in active military duty must satisfy the special limitation rules described in Section 415(n) of the Internal Revenue Code to the extent it is considered permissive service credit, and shall be automatically reduced, limited, or required to be paid over multiple years (consistent with the time limits under this section for making such contributions) if necessary to ensure such compliance. To the extent the purchased service is qualified military service within the meaning of Section 414(u) of the Internal Revenue Code, the limitations of Section 415 of the Internal Revenue Code shall be applied to the purchase as described in Section 414(u)(1)(B) of the Internal Revenue Code.

(g) The retirement board may propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to administer the provisions of this section.

(h) Notwithstanding the preceding provisions of this section, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military service" has the same meaning as in Section 414(u) of the Internal Revenue Code.