WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 650

(Senators Foster, Oliverio and Plymale, original sponsors)

[Passed March 8, 2008; in effect ninety days from passage.]
AN ACT to amend and reenact §16-5V-2, §16-5V-6, §16-5V-8, §16-5V-9, §16-5V-14, §16-5V-18, §16-5V-19, §16-5V-25 and §16-5V-32 of the Code of West Virginia, 1931, as amended, all relating to the Emergency Medical Services Retirement System; adding and modifying definitions; specifying that members hired after the effective date of this plan are members of the plan as a condition of employment; clarifying language relating to the
Enr. Com. Sub. for S. B. No. 650] 2

participation of public employers in this plan; clarifying language relating to the transfer of Public Employees Retirement System service credit and reinstatement of service as an emergency medical services officer; specifying the date on which contributions are due the fund and providing for delinquency fees for late payments; clarifying language relating to purchase of prior service and providing for delinquency fees for late payments; eliminating minimum required eligible direct rollover distributions paid directly to an eligible retirement plan; allowing distributions totaling less than two hundred dollars within the definition of eligible rollover distribution; clarifying the language relating to the benefit awarded for a duty disability; adding provisions for the payment of additional death benefits; clarifying language relating to the effective date for receipt of a duty disability benefit; and making a correction to the time period for which the Joint Committee on Government and Finance shall conduct an interim study on the potential effects of the implementation of this plan.

Be it enacted by the Legislature of West Virginia:

That §16-5V-2, §16-5V-6, §16-5V-8, §16-5V-9, §16-5V-14, §16-5V-18, §16-5V-19, §16-5V-25 and §16-5V-32 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-2. Definitions.

1 As used in this article, unless a federal law or regulation or the context clearly requires a different meaning:
(a) "Accrued benefit" means on behalf of any member two and six-tenths percent per year of the member's final average salary for the first twenty years of credited service. Additionally, two percent per year for twenty-one through twenty-five years and one percent per year for twenty-six through thirty years will be credited with a maximum benefit of sixty-seven percent. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of section twelve of this article.

(1) The board may upon the recommendation of the board's actuary increase the employees' contribution rate to ten and five-tenths percent should the funding of the plan not reach seventy percent funded by the first day of July, two thousand twelve. The board shall decrease the contribution rate to eight and one-half percent once the plan funding reaches the seventy percent support objective as of any later actuarial valuation date.

(2) Upon reaching the seventy-five percent actuarial funded level, as of an actuarial valuation date, the board shall increase the two and six-tenths percent to two and three-quarter percent for the first twenty years of credited service. The maximum benefit will also be increased from sixty-seven percent to seventy percent.

(b) "Accumulated contributions" means the sum of all retirement contributions deducted from the compensation of a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.
(c) "Active military duty" means full-time active duty with any branch of the armed forces of the United States, including service with the National Guard or Reserve military forces when the member has been called to active full-time duty and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) "Actuarial equivalent" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article.

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of Section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based upon the nature or location of employment or services performed during the plan year plus amounts excluded under Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed one hundred thousand dollars as adjusted for cost-of-living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code.

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission
of a retirement application. For purposes of this
subsection, if retirement income payments commence
after the normal retirement age, "retirement" means the
first day of the month following or coincident with the
latter of the last day the member worked in covered
employment or the member's normal retirement age and
after completing proper written application for
"retirement" on an application supplied by the board.

(h) "Board" means the Consolidated Public
Retirement Board.

(i) "County commission or political subdivision" has
the meaning ascribed to it in this code.

(j) "Covered employment" means either: (1)
Employment as a full-time emergency medical
technician, emergency medical technician/paramedic or
emergency medical services/registered nurse and the
active performance of the duties required of emergency
medical services officers; or (2) the period of time during
which active duties are not performed but disability
benefits are received under this article; or (3) concurrent
employment by an emergency medical services officer in
a job or jobs in addition to his or her employment as an
emergency medical services officer where the secondary
employment requires the emergency medical services
officer to be a member of another retirement system
which is administered by the Consolidated Public
Retirement Board pursuant to this code: Provided, That
the emergency medical services officer contributes to
the fund created in this article the amount specified as
the member's contribution in section eight of this
article.
(k) "Credited service" means the sum of a member's years of service, active military duty, disability service and accrued annual and sick leave service.

(l) "Dependent child" means either:

1. An unmarried person under age eighteen who is:
   1. A natural child of the member;
   2. A legally adopted child of the member;
   3. A child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or
   4. A stepchild of the member residing in the member's household at the time of the member's death; or

2. Any unmarried child under age twenty-three:
   1. Who is enrolled as a full-time student in an accredited college or university;
   2. Who was claimed as a dependent by the member for federal income tax purposes at the time of member's death; and
   3. Whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

(m) "Dependent parent" means the father or mother of the member who was claimed as a dependent by the
member for federal income tax purposes at the time of the member's death.

(n) "Disability service" means service received by a member, expressed in whole years, fractions thereof or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.

(o) "Early retirement age" means age forty-five or over and completion of twenty years of service.

(p) "Effective date" means the first day of January, two thousand eight.

(q) "Emergency medical services officer" means an individual employed by the state, county or other political subdivision as a medical professional who is qualified to respond to medical emergencies, aids the sick and injured and arranges or transports to medical facilities, as defined by the West Virginia Office of Emergency Medical Services. This definition is construed to include employed ambulance providers and other services such as law enforcement, rescue or fire department personnel who primarily perform these functions and are not provided any other credited service benefits or retirement plans. These persons may hold the rank of emergency medical technician/basic, emergency medical technician/paramedic, emergency medical services/registered nurse, or others as defined by the West Virginia Office of Emergency Medical Services and the Consolidated Public Retirement Board.

(r) "Final average salary" means the average of the highest annual compensation received for covered
employment by the member during any five consecutive plan years within the member's last ten years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article then "final average salary" means the average of the monthly salary determined paid to the member during that period as determined under section twenty-two of this article multiplied by twelve. "Final average salary" does not include any lump sum payment for unused, accrued leave of any kind or character.

(s) "Full-time employment" means permanent employment of an employee by a participating public employer in a position which normally requires twelve months per year service and requires at least one thousand forty hours per year service in that position.

(t) "Fund" means the West Virginia Emergency Medical Services Retirement Fund created by this article.

(u) "Hour of service" means:

(1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are performed; and

(2) Each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation,
holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under section nineteen or twenty of this article; and

(3) Each hour for which back pay is either awarded or agreed to be paid by the employing county commission or political subdivision, irrespective of mitigation of damages. The same hours of service shall not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

(v) "Member" means a person first hired as an emergency medical services officer by an employer which is a participating public employer of the Public Employees Retirement System or the Emergency Medical Services Retirement System after the effective date of this article, as defined in subsection (p) of this section, or an emergency medical services officer of an employer which is a participating public employer of the Public Employees Retirement System first hired prior to the effective date and who elects to become a member pursuant to this article. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.
(w) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

(x) "Normal form" means a monthly annuity which is one twelfth of the amount of the member's accrued benefit which is payable for the member's life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

(y) "Normal retirement age" means the first to occur of the following:

(1) Attainment of age fifty years and the completion of twenty or more years of regular contributory service, excluding active military duty, disability service and accrued annual and sick leave service;

(2) While still in covered employment, attainment of at least age fifty years and when the sum of current age plus regular contributory years of service equals or exceeds seventy years;

(3) While still in covered employment, attainment of at least age sixty years and completion of ten years of regular contributory service; or

(4) Attainment of age sixty-two years and completion of five or more years of regular contributory service.

(z) "Political subdivision" means a county, city or
town in the state; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns: Provided, That any public corporation established under section four, article fifteen, chapter seven of this code is considered a political subdivision solely for the purposes of this article.

(aa) "Public Employees Retirement System" means the West Virginia Public Employee's Retirement System created by West Virginia Code.

(bb) "Plan" means the West Virginia Emergency Medical Services Retirement System established by this article.

(cc) "Plan year" means the twelve-month period commencing on the first day of January of any designated year and ending the following thirty-first day of December.

(dd) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

(ee) "Retirement income payments" means the monthly retirement income payments payable under the plan.

(ff) "Spouse" means the person to whom the member
is legally married on the annuity starting date.

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

(hh) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months.

For purposes of this subsection:

(1) A member is totally disabled only if his or her physical or mental impairment or impairments is so severe that he or she is not only unable to perform his or her previous work as an emergency medical services officer but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration.

(2) "Physical or mental impairment" is an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques. The board may require submission of a
member's annual tax return for purposes of monitoring the earnings limitation.

(ii) "Required beginning date" means the first day of April of the calendar year following the later of: (1) The calendar year in which the member attains age seventy and one-half; or (2) the calendar year in which he or she retires or otherwise separates from covered employment; or (3) for members who are covered under the Public Employees Retirement System, their service shall be recognized upon transfer of assets from the Public Employees Retirement System according to the provisions of section nine of this article. Prior service for members not covered under the Public Employees Retirement System shall be recognized only upon repayment of amounts covered under the provisions of section six of this article.

(jj) "Year of service" means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based upon the hours of service performed as covered employment and credited to the member during the plan year based upon the following schedule:

<table>
<thead>
<tr>
<th>Hours of Service Year of Service Credited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 500</td>
</tr>
<tr>
<td>500 to 999</td>
</tr>
<tr>
<td>1,000 to 1,499</td>
</tr>
<tr>
<td>1,500 or more</td>
</tr>
</tbody>
</table>

During a member's first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the

plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under section nineteen or twenty of this article. Except as specifically excluded, years of service include covered employment prior to the effective date.

Years of service which are credited to a member prior to his or her receipt of accumulated contributions upon termination of employment pursuant to section eighteen of this article or section thirty, article ten, chapter five of this code, shall be disregarded for all purposes under this plan unless the member repays the accumulated contributions with interest pursuant to section eighteen of this article or has prior to the effective date made the repayment pursuant to section eighteen, article ten, chapter five of this code.

§16-5V-6. Members.

(a) Any emergency medical services officer first employed by a county or political subdivision in covered employment after the effective date of this article shall be a member of this retirement plan as a condition of employment and upon membership does not qualify for membership in any other retirement system administered by the board, so long as he or she remains employed in covered employment.

(b) Any emergency medical services officer employed in covered employment by an employer which is currently a participating public employer of the Public Employees Retirement System shall notify in writing
both the county commission in the county or officials in
their political subdivision in which he or she is
employed and the board of his or her desire to become
a member of the plan by the thirty-first day of
December, two thousand seven. Any emergency medical
services officer who elects to become a member of the
plan ceases to be a member or have any credit for
covered employment in any other retirement system
administered by the board and shall continue to be
ineligible for membership in any other retirement
system administered by the board so long as the
emergency medical services officer remains employed in
covered employment by an employer which is currently
a participating public employer of this plan: Provided,
That any emergency medical services officer who does
not affirmatively elect to become a member of the plan
continues to be eligible for any other retirement system
as is from time to time offered to other county
employees but is ineligible for this plan regardless of
any subsequent termination of employment and rehire.

(c) Any emergency medical services officer who was
employed as an emergency medical services officer prior
to the effective date, but was not employed on the
effective date of this article, shall become a member
upon rehire as an emergency medical services officer.
For purposes of this section, the member's years of
service and credited service prior to the effective date
shall not be counted for any purposes under this plan
unless: (1) The emergency medical services officer has
not received the return of his or her accumulated
contributions in the Public Employees Retirement Fund
System pursuant to section thirty, article ten, chapter
two of this code; or (2) the accumulated contributions
returned to the member from the Public Employees
Retirement System have been repaid pursuant to this article. If the conditions of subdivision (1) or (2) of this subsection are met, all years of the emergency medical services officer's covered employment shall be counted as years of service for the purposes of this article.

(d) Any emergency medical services officer employed in covered employment on the effective date of this article who has timely elected to transfer into this plan as provided in subsection (b) of this section shall be given credited service at the time of transfer for all credited service then standing to the emergency medical services officer's service credit in the Public Employees Retirement System regardless of whether the credited service (as that term is defined in section two, article ten, chapter five of this code) was earned as an emergency medical services officer. All credited service standing to the transferring emergency medical services officer's credit in the Public Employees Retirement System at the time of transfer into this plan shall be transferred into the plan created by this article and the transferring emergency medical services officer shall be given the same credit for the purposes of this article for all service transferred from the Public Employees Retirement System as that transferring emergency medical services officer would have received from the Public Employees Retirement System as if the transfer had not occurred. In connection with each transferring emergency medical services officer receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in this article: Provided, That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant
to subsection (b) of this section may not, after having transferred into and becoming an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment as an emergency medical services officer and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(e) Once made, the election made under this section is irrevocable. All emergency medical services officers employed by an employer which is a participating public employer of the Public Employees Retirement System after the effective date and emergency medical services officers electing to become members as described in this section shall be members as a condition of employment and shall make the contributions required by this article.

(f) Notwithstanding any other provisions of this article, any individual who is a leased employee is not eligible to participate in the plan. For purposes of this plan, a "leased employee" means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or similar organization. If a question arises regarding the status of an individual as a leased employee, the board has final power to decide the question.

§16-5V-8. Members' contributions; employer contributions.

There shall be deducted from the monthly salary of each member and paid into the fund an amount equal to
Any active member who has concurrent employment in an additional job or jobs and the additional employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code shall contribute to the fund the sum of eight and one-half percent of his or her monthly salary earned as an emergency medical services officer as well as the sum of eight and one-half percent of his or her monthly salary earned from any additional employment which additional employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code. An additional ten and one-half percent of the monthly salary of each member shall be paid to the fund by the concurrent employer by which the member is employed. All required deposits shall be remitted to the board no later than fifteen days following the end of the calendar month for which the deposits are required. If the board upon the recommendation of the board actuary finds that the benefits provided by this article can be actuarially funded with a lesser contribution, then the board shall reduce the required member and employer contributions proportionally. Any county commission or political subdivision which fails to make any payment due the Emergency Medical Services Retirement Fund by the fifteenth day following the end of each calendar month in which contributions are due may be required to pay the actuarial rate of interest lost on the total amount owed for each day the payment is delinquent. Accrual of the loss of earnings owed by the
38 delinquent county commission or political subdivision
39 commences after the fifteenth day following the end of
40 the calendar month in which contributions are due and
41 continues until receipt of the delinquent amount.
42 Interest compounds daily and the minimum surcharge
43 is fifty dollars.

§16-5V-9. Transfer from Public Employees Retirement System.

1 (a) The Consolidated Retirement Board shall, within
2 one hundred eighty days of the effective date of the
3 transfer of an emergency medical services officer from
4 the Public Employees Retirement System to the plan,
5 transfer assets from the Public Employees Retirement
6 System Trust Fund into the West Virginia Emergency
7 Medical Services Trust Fund.

8 (b) The amount of assets to be transferred for each
9 transferring emergency medical services officer shall be
10 computed as of the first day of January, two thousand
11 eight, using the first day of July, two thousand seven,
12 actuarial valuation of the Public Employees Retirement
13 System, and updated with seven and one-half percent
14 annual interest to the date of the actual asset transfer.
15 The market value of the assets of the transferring
16 emergency medical services officer in the Public
17 Employees Retirement System shall be determined as of
18 the end of the month preceding the actual transfer. To
19 determine the computation of the asset share to be
20 transferred the board shall:

21 (1) Compute the market value of the Public Employees
22 Retirement System assets as of the first day of July, two
23 thousand seven, actuarial valuation date, under the
24 actuarial valuation approved by the board;
(2) Compute the actuarial accrued liabilities for all Public Employees Retirement System retirees, beneficiaries, disabled retirees and terminated inactive members as of the first day of July, two thousand seven, actuarial valuation date;

(3) Compute the market value of active member assets in the Public Employees Retirement System as of the first day of July, two thousand seven, by reducing the assets value under subdivision one by the inactive liabilities under subdivision (2) of this subsection;

(4) Compute the actuarial accrued liability for all active Public Employees Retirement System members as of the first day of July, two thousand seven, actuarial valuation date approved by the board;

(5) Compute the funded percentage of the active members' actuarial accrued liabilities under the Public Employees Retirement System as of the first day of July, two thousand seven, by dividing the active members' market value of assets under subdivision three by the active members' actuarial accrued liabilities under subdivision (4) of this subsection;

(6) Compute the actuarial accrued liabilities under the Public Employees Retirement System as of the first day of July, two thousand seven, for active emergency medical services officers transferring to the Emergency Medical Services Retirement System;

(7) Determine the assets to be transferred from the Public Employees Retirement System to the Emergency Medical Services Retirement System by multiplying the active members' funded percentage determined under
subdivision (5) of this subsection by the transferring active members' actuarial accrued liabilities under the Public Employees Retirement System under subdivision (6) of this subsection and adjusting the asset transfer amount by interest at seven and five-tenths percent for the period from the calculation date of the first day of July, two thousand seven, through the first day of the month in which the asset transfer is to be completed.

(c) Once an emergency medical services officer has elected to transfer from the Public Employees Retirement System, transfer of that amount as calculated in accordance with the provisions of subsection (b) of this section by the Public Employees Retirement System shall operate as a complete bar to any further liability to the Public Employees Retirement System and constitutes an agreement whereby the transferring emergency medical services officer forever indemnifies and holds harmless the Public Employees Retirement System from providing him or her any form of retirement benefit whatsoever until that emergency medical services officer obtains other employment which would make him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever for the amounts transferred to the Emergency Medical Services Retirement System.

(d) Eligible emergency medical services officers that transfer from plans other than the Public Employees Retirement System shall have service recognized under this plan through the purchase of the service through payment by the member of sixty percent of the actuarial accrued liabilities which would result if the service is credited under the Emergency Medical Services Retirement System subject to the following:

(1) The service may be purchased in one year increments of eligible service or for the total period of eligible service;

(2) Payment must begin within twelve months of the effective date of this article;

(3) Payment must be made in either a one-time lump sum payment received by the board no later than the thirty-first day of December, two thousand eight, or in regular installment payments payable over sixty months with the initial installment received by the board on or before the thirty-first day of December, two thousand eight;

(4) The rate of interest applicable to regular installment payments for the purchase of service shall be the actuarial interest rate assumption as approved by the board for completing the actuarial valuation for the plan year immediately preceding the first day of the plan year in which the service purchase is made, compounded per annum;

(5) Once payments commence, selection of the period of service being purchased may not be amended; and

(6) Service will be credited only upon receipt by the board of all payments due.

§16-5V-14. Direct rollovers.

This section applies to distributions made on or after the first day of January, one thousand nine hundred ninety-three. Notwithstanding any provision of this article to the contrary that would otherwise limit a
distributee's election under this plan, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions apply:

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any of the following: (A) Any distribution that is one of a series of substantially equal periodic payments not less frequently than annually made for the life or life expectancy of the distributee or the joint lives or the joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (B) any distribution to the extent the distribution is required under Section 401(a)(9) of the Internal Revenue Code; (C) the portion of any distribution that is not includable in gross income determined without regard to the exclusion for net unrealized appreciation with respect to employer securities; and (D) any hardship distribution described in Section 401(k) (2) (B) (i) (iv) of the Internal Revenue Code.

(2) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code or a qualified plan described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover
Provided, That in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) “Distributee” means an employee or former employee. In addition, the employee’s or former employee’s surviving spouse and the employee’s or former employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code with respect to governmental plans, are distributees with regard to the interest of the spouse or former spouse.

(4) “Direct rollover” means a payment by the plan to the eligible retirement plan.

§16-5V-18. Refunds to certain members upon discharge or resignation; deferred retirement; forfeitures.

(a) Any member who terminates covered employment and is not eligible to receive disability benefits under this article is, by written request filed with the board, entitled to receive from the fund the member’s accumulated contributions. Except as provided in subsection (b) of this section, upon withdrawal, the member shall forfeit his or her accrued benefit and cease to be a member.

(b) Any member who ceases employment in covered employment and active participation in this plan and who thereafter becomes reemployed in covered employment may not receive any credited service for
any prior withdrawn accumulated contributions from either this plan or the Public Employees Retirement System unless following his or her return to covered employment and active participation in this plan, the member redeposits in the fund the amount of the accumulated contributions withdrawn from previous covered employment, together with interest on the accumulated contributions at the rate determined by the board from the date of withdrawal to the date of redeposit. Upon repayment he or she shall receive the same credit on account of his or her former covered employment as if no refund had been made.

The repayment authorized by this subsection shall be made in a lump sum within sixty months of the emergency medical services officer's reemployment in covered employment or, if later, within sixty months of the effective date of this article.

(c) A member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to subsection (b), section six of this article may not, after having transferred into and become an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods of nonemergency medical services officer service withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

(d) Every member who completes sixty months of covered employment is eligible, upon cessation of covered employment, to either withdraw his or her accumulated contributions in accordance with this section or to choose not to withdraw his or her
accumulated contribution and to receive retirement income payments upon attaining early or normal retirement age.

(e) Notwithstanding any other provision of this article, forfeitures under the plan may not be applied to increase the benefits any member would otherwise receive under the plan.


(a) Any member who after the effective date of this article and during covered employment: (1) Has been or becomes totally disabled by injury, illness or disease; and (2) the disability is a result of an occupational risk or hazard inherent in or peculiar to the services required of members; or (3) the disability was incurred while performing emergency medical services functions during either scheduled work hours or at any other time; and (4) in the opinion of two physicians after medical examination, one of whom shall be named by the board, the member is by reason of the disability unable to perform adequately the duties required of an emergency medical services officer, is entitled to receive and shall be paid from the fund in monthly installments during the lifetime of the member or, if sooner, until the member attains normal retirement age or until the disability sooner terminates, the compensation under this section.

(b) If the member is totally disabled, the member shall receive ninety percent of his or her average full monthly compensation for the twelve-month period preceding the member's disability or the shorter period if the member has not worked twelve months.
(c) If the member remains totally disabled until attaining sixty-five years of age, the member shall then receive the retirement benefit provided in sections sixteen and seventeen of this article.

§16-5V-25. Additional death benefits and scholarships — Dependent children.

(a) In addition to the spouse death benefits in this article, the surviving spouse is entitled to receive and there shall be paid to the spouse one hundred dollars monthly for each dependent child.

(b) If the surviving spouse dies or if there is no surviving spouse, the fund shall pay monthly to each dependent child a sum equal to one hundred percent of the spouse's entitlement under this article divided by the number of dependant children. If there is neither a surviving spouse nor a dependent child, the fund shall pay in equal monthly installments to the dependent parents of the deceased member during their joint lifetimes a sum equal to the amount which a surviving spouse, without children, would have received: Provided, That when there is only one dependent parent surviving, that parent is entitled to receive during his or her lifetime one-half the amount which both parents, if living, would have been entitled to receive: Provided, however, That if there is no surviving spouse, dependent child or dependent parent of the deceased member, the accumulated contributions shall be paid to a named beneficiary or beneficiaries: Provided further, That if there is no surviving spouse, dependent child or dependent parent of the deceased member, or any named beneficiary or beneficiaries, then the accumulated contributions shall be paid to the estate of
(c) Any person qualifying as a dependent child under this section, in addition to any other benefits due under this or other sections of this article, is entitled to receive a scholarship to be applied to the career development education of that person. This sum, up to but not exceeding six thousand dollars per year, shall be paid from the fund to any university or college in this state or to any trade or vocational school or other entity in this State approved by the board to offset the expenses of tuition, room and board, books, fees or other costs incurred in a course of study at any of these institutions so long as the recipient makes application to the board on an approved form and under rules provided by the board and maintains scholastic eligibility as defined by the institution or the board. The board may propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code which define age requirements, physical and mental requirements, scholastic eligibility, disbursement methods, institutional qualifications and other requirements as necessary and not inconsistent with this section.

§16-5V-32. Effective date; report to Joint Committee on Government and Finance; special starting date for benefits.

(a) The provisions of this article become effective the first day of January, two thousand eight: Provided, That no payout of any benefits may be made to any person prior to the first day of January, two thousand eleven: Provided, however, That emergency medical services officers who retire due to a duty disability pursuant to
this article may begin receiving the benefits at the rate and in the amount specified in this article from this fund after the thirtieth day of June, two thousand eight: Provided further, That until the thirtieth day of June, two thousand eight, those emergency medical services officers who retire due to a duty disability pursuant to this article may draw benefits from this fund at the rate and in the amount set forth in section twenty-five, article ten, chapter five of this code.

(b) During the 36-month period before the payout of benefits begins, the Joint Committee on Government and Finance shall cause an interim study or studies to be conducted on the potential effects of the implementation of this retirement system, including, but not limited to, potential funding mechanisms to provide health insurance coverage for retirees in the fifty to fifty-five age group: Provided, That after the effective date of this provision, the Director of the Public Employees Insurance Agency shall propose a rule for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code governing the funding of health insurance coverage for retirees under the plan provided in this article who are in the fifty to fifty-five year age group, which rule may be filed as an emergency rule: Provided, however, That any rule filed as an emergency rule pursuant to this subsection shall be refiled at the earliest opportunity as a legislative rule for review and promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairs

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this 29th Day of March, 2008.

Governor