

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

House Bill 3299

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2023 MAR 23 P 3:31

FILED

BY DELEGATES STORCH, C. PRITT, ANDERSON, KUMP,

MARPLE, E. PRITT AND HORNBuckle

[Passed March 8, 2023; in effect ninety days from passage.]

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1 AN ACT to amend and reenact §20-18-5, and §20-18-6 of the Code of West Virginia, 1931, as
2 amended; all relating to Natural Resource Police Officer Retirement System; authorizing
3 the acceptance of gifts and additional contributions; and authorizing transfer of service
4 credit under certain circumstances.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 18. WEST VIRGINIA DIVISION OF NATURAL RESOURCES POLICE
OFFICER RETIREMENT SYSTEM.**

**§20-18-5. Article to be liberally construed; supplements federal social security; federal
qualification requirements.**

1 (a) The provisions of this article shall be liberally construed to provide a general retirement
2 system for Natural Resources Police Officers eligible to retire under the provisions of this plan.
3 Nothing in this article may be construed to permit the state to substitute this plan for federal social
4 security now in force in West Virginia.

5 (b) The board shall administer the plan in accordance with its terms and may construe the
6 terms and determine all questions arising in connection with the administration, interpretation and
7 application of the plan. The board may sue and be sued, contract and be contracted with and
8 conduct all the business of the system in the name of the plan. The board may employ those
9 persons it considers necessary or desirable to administer the plan. All start-up costs to modify the
10 existing line of business computer system and all personnel salary, including benefits, shall be
11 paid by the board from funds received by the board through gifts and bequests to the fund and
12 any accretions and accumulations which may properly be paid into and become a part of the fund.
13 The board may receive gifts and bequests for purposes of paying start-up costs as set forth in
14 this subsection. The board may also receive gifts and additional contributions for the purpose of
15 supplementing the plan. The board shall administer the plan for the exclusive benefit of the
16 members and their beneficiaries subject to the specific provisions of the plan.

17 (c) The plan is intended to meet the federal qualification requirements of Section 401(a)
18 and related sections of the Internal Revenue Code as applicable to governmental plans.
19 Notwithstanding any other provision of state law, the board shall administer the plan to fulfill this
20 intent for the exclusive benefit of the members and their beneficiaries. Any provision of this article
21 referencing or relating to these federal qualification requirements shall be effective as of the date
22 required by federal law. The board may promulgate rules and amend or repeal conflicting rules in
23 accordance with the authority granted to the board pursuant to §5-10D-1 of this code to assure
24 compliance with the requirements of this section.

§20-18-6. Members.

1 (a) Any Natural Resources Police Officer first employed in covered employment after the
2 effective date of this article shall be a member of this retirement system and does not qualify for
3 membership in any other retirement system administered by the board, so long as he or she
4 remains employed in covered employment: *Provided*, That any Natural Resources Police Officer
5 who has concurrent employment in an additional job or jobs which would require the Natural
6 Resources Police Officer to be a member of the West Virginia Deputy Sheriff Retirement System,
7 West Virginia Municipal Police Officers and Firefighters Retirement System or the West Virginia
8 Emergency Medical Services Retirement System shall participate in only one retirement system
9 administered by the board, and the retirement system applicable to the concurrent employment
10 for which the employee has the earliest date of hire shall prevail. The membership of any person
11 in the plan ceases: (1) Upon the withdrawal of accumulated contributions after the cessation of
12 service; (2) upon retirement; or (3) at death.

13 (b) Any Natural Resources Police Officer employed in covered employment on July 1,
14 2020, shall notify in writing both the Division of Natural Resources and the board no later than
15 September 30, 2020, of his or her desire to become a member of the plan beginning January 2,
16 2021: *Provided*, That any Natural Resources Police Officer hired after July 1, 2020, but before
17 January 2, 2021, shall make this required notification to the division and the board no later than

18 30 days from receipt of the notice required by §20-18-11 of this code or September 30, 2020,
19 whichever is later. Any Natural Resources Police Officer who elects to become a member of the
20 plan ceases to be an active member in the Public Employees Retirement System and shall
21 continue to be ineligible for future membership in any other retirement system administered by
22 the board so long as the Natural Resources Police Officer remains employed in covered
23 employment in this plan; any Natural Resources Police Officer who does not affirmatively elect to
24 become a member of the plan continues to be eligible for any other retirement system as is from
25 time to time offered to other state employees but is ineligible for this plan regardless of any
26 subsequent termination of employment and rehire.

27 (c) Any Natural Resources Police Officer employed in covered employment on the
28 effective date of this article, who has timely elected to transfer into this plan as provided in
29 subsection (b) of this section, shall be given credited service at the time of transfer for all credited
30 service then standing to the Natural Resources Police Officer service credit in the Public
31 Employees Retirement System regardless of whether the credited service (as that term is defined
32 in §5-10-2 of this code) was earned as a Natural Resources Police Officer. All the credited service
33 standing to the transferring Natural Resources Police Officer's credit in the Public Employees
34 Retirement Fund System at the time of transfer into this plan shall be transferred into the plan
35 created by this article, and the transferring Natural Resources Police Officer shall be given the
36 same credit for the purposes of this article for all service transferred from the Public Employees
37 Retirement System, as that transferring Natural Resources Police Officer would have received
38 from the Public Employees Retirement System as if the transfer had not occurred. In connection
39 with each transferring Natural Resources Police Officer receiving credit for prior employment as
40 provided in this subsection, a transfer from the Public Employees Retirement System to this plan
41 shall be made pursuant to the procedures described in §20-18-10 of this code: *Provided*, That a
42 member of this plan who has elected to transfer from the Public Employees Retirement System
43 into this plan pursuant to subsection (b) of this section may not, after having transferred into and

44 become an active member of this plan, reinstate to his or her credit in this plan any service credit
45 relating to periods of non-Natural Resources Police Officer service which were withdrawn from
46 the Public Employees Retirement System prior to his or her elective transfer into this plan.

47 (d) Any Natural Resources Police Officer who was employed as a Natural Resources
48 Police Officer between the effective date of this article and June 30, 2026, who has not
49 commenced retirement under the Public Employees Retirement System, shall become a member
50 upon rehire as a Natural Resources Police Officer. For purposes of this subsection, the member's
51 years of service and credited service prior to the effective date shall not be counted for any
52 purposes under this plan unless the Natural Resources Police Officer has not received the return
53 of his or her accumulated contributions in the Public Employees Retirement System pursuant to
54 §5-10-30 of this code. The member may request in writing within two years of first becoming a
55 member of the plan to have his or her accumulated contributions and employer contributions from
56 all credited service, as that term is defined in §5-10-2 of this code, in the Public Employees
57 Retirement System transferred to the plan regardless of whether the credited service was earned
58 as a Natural Resources Police Officer. If the conditions of the subsection are met, all years of the
59 Natural Resources Police Officer's credited service shall be counted as years of service for the
60 purposes of this article.

61 (e) Any certified law enforcement officer who has law enforcement service with a
62 participating public employer in the Public Employees Retirement System who is first employed
63 in covered employment between the effective date of this article and June 30, 2026, and who has
64 not commenced retirement under the Public Employees Retirement System, shall be a member
65 of this retirement system. For purposes of this subsection, the member's years of service and
66 credited service prior to the effective date shall not be counted for any purposes under this plan
67 unless the Natural Resources Police Officer has not received the return of his or her accumulated
68 contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The
69 member may request in writing within two years of first becoming a member of the plan to have

70 up to a maximum of three years of his or her accumulated contributions and employer
71 contributions from credited service, as that term is defined in §5-10-2 of this code, earned while
72 performing service as a certified law enforcement officer in the Public Employees Retirement
73 System transferred to the plan. If the member has more than three years of credited service as a
74 certified law enforcement officer in the Public Employees Retirement System, the accumulated
75 contributions and employer contributions of the first thirty-six months of credited service with full
76 salary as a certified law enforcement officer shall be transferred. If the conditions of the subsection
77 are met, the maximum three years of credited service in the Public Employees Retirement System
78 as a certified law enforcement officer shall be counted as years of service for the purposes of this
79 article.

80 (f) Any Natural Resources Police Officer who was employed as a Natural Resources
81 Police Officer prior to the effective date of this article and who was rehired as a Natural Resource
82 Police Officer on or after July 1, 2026, and who has not commenced retirement under the Public
83 Employees Retirement System, shall become a member upon rehire as a Natural Resources
84 Police Officer. For purposes of this subsection, the member's years of service and credited
85 service prior to the effective date shall not be counted for any purposes under this plan unless the
86 Natural Resources Police Officer has not received the return of his or her accumulated
87 contributions in the Public Employees Retirement System pursuant to §5-10-30 of this code. The
88 member may request in writing within one year of first becoming a member of the plan to have
89 his or her accumulated contributions and employer contributions from covered employment in the
90 Public Employees Retirement System transferred to the plan. If the conditions of the subsection
91 are met, all years of the Natural Resources Police Officer's covered employment shall be counted
92 as years of service for the purposes of this article.

93 (g) Once made, the election provided in this section is irrevocable. All Natural Resources
94 Police Officers first employed after the effective date and Natural Resources Police Officers

95 electing to become members as described in this section shall be members as a condition of
96 employment and shall make the contributions required by §20-18-8 of this code.

97 (h) Notwithstanding any other provisions of this article to the contrary, any individual who
98 is a leased employee is not eligible to participate in the plan. For purposes of this plan, a "leased
99 employee" means any individual who performs services as an independent contractor or pursuant
100 to an agreement with an employee leasing organization or similar organization. If a question
101 arises regarding the status of an individual as a leased employee, the board has final power to
102 decide the question. Additionally, any individual who is an Emergency Natural Resources Police
103 Officer as defined in §20-7-1(c) of this code, Special Natural Resources Police Officer as defined
104 in §20-7-1(d) of this code, Forestry Special Natural Resources Police Officer as defined in §20-7-
105 1(e) of this code, or Federal Law Enforcement Officer as defined in §20-7-1b of this code, is not
106 eligible to participate in the plan.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harris

.....
Clerk of the House of Delegates

Joe Linn
.....
Clerk of the Senate

FILED
2023 MAR 23 P 3:31
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the House of Delegates.

In effect ninety days from passage.

Rep. Hensley
.....
Speaker of the House of Delegates

CyPRB
.....
President of the Senate

The within is *approved* this the *23rd*
Day of *March* 2023.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 16 2023

Time 3:59 pm