

1 **Senate Bill No. 369**

2 (By Senators Unger and Snyder)

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4 [Introduced January 20, 2012; referred to the Committee on  
5 Pensions; and then to the Committee on the Judiciary.]

6 \_\_\_\_\_ **FISCAL  
NOTE**

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10 A BILL to amend and reenact §7-14D-12 of the Code of West Virginia,  
11 1931, as amended, relating to modifying the Deputy Sheriff  
12 Retirement System to allow a retirant, upon divorce, to change  
13 the retirement benefit options under certain circumstances.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §7-14D-12 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

17 **ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.**

18 **§7-14D-12. Annuity options.**

19 Prior to the effective date of retirement, but not thereafter,  
20 a member may elect to receive retirement income payments in the  
21 normal form, or the actuarial equivalent of the normal form from  
22 the following options:

23 (a) *Option A -- Joint and Survivor Annuity.* -- A life annuity

1 payable during the joint lifetime of the member and his or her  
2 beneficiary who is a natural person with an insurable interest in  
3 the member's life. Upon the death of either the member or his or  
4 her beneficiary, the benefit shall continue as a life annuity to  
5 the survivor in an amount equal to fifty percent, sixty-six and  
6 two-thirds percent, seventy-five percent or one hundred percent of  
7 the amount paid while both were living as selected by the member.  
8 If the retiring member is married, the spouse shall sign a waiver  
9 of benefit rights if the beneficiary is to be other than the  
10 spouse.

11       (b) *Option B -- Contingent Joint and Survivor Annuity.* -- A  
12 life annuity payable during the joint lifetime of the member and  
13 his or her beneficiary who must be a natural person with an  
14 insurable interest in the member's life. Upon the death of the  
15 member, the benefit shall continue as a life annuity to the  
16 beneficiary in an amount equal to fifty percent, sixty-six and  
17 two-thirds percent, seventy-five percent or one hundred percent of  
18 the amount paid while both were living as selected by the member.  
19 If the beneficiary dies first, the monthly amount of benefits may  
20 not be reduced, but shall be paid at the amount that was in effect  
21 before the death of the beneficiary. If the retiring member is  
22 married, the spouse shall sign a waiver of benefit rights if the  
23 beneficiary is to be other than the spouse.

24       (c) *Option C -- Ten Years Certain and Life Annuity.* -- A life

1 annuity payable during the member's lifetime but in any event for  
2 a minimum of ten years. If the member dies before the expiration  
3 of ten years, the remaining payments shall be made to a designated  
4 beneficiary, if any, or otherwise to the member's estate.

5 (d) *Option D -- Level Income Annuity.* -- A life annuity  
6 payable monthly in an increased amount "A" from the time of  
7 retirement until the member is social security retirement age, and  
8 then a lesser amount "B" payable for the member's lifetime  
9 thereafter, with these amounts computed actuarially to satisfy the  
10 following two conditions:

11 (1) *Actuarial equivalence.* -- The actuarial present value at  
12 the date of retirement of the member's annuity if taken in the  
13 normal form must equal the actuarial present value of the term life  
14 annuity in amount "A" plus the actual present value of the deferred  
15 life annuity in amount "B"; and

16 (2) *Level income.* -- The amount "A" equals the amount "B" plus  
17 the amount of the member's estimated monthly social security  
18 primary insurance amount that would commence at the date amount "B"  
19 becomes payable. For this calculation, the primary insurance  
20 amount is estimated when the member applies for retirement, using  
21 social security law then in effect, using assumptions established  
22 by the board.

23 In the case of a member who has elected the options set forth  
24 in subdivisions (a) and (b) of this section, respectively, and

1 whose beneficiary dies prior to the member's death, the member may  
2 name an alternative beneficiary. If an alternative beneficiary is  
3 named within eighteen months following the death of the prior  
4 beneficiary, the benefit shall be adjusted to be the actuarial  
5 equivalent of the benefit the member is receiving just after the  
6 death of the member's named beneficiary. If the election is not  
7 made until eighteen months after the death of the prior  
8 beneficiary, the amount shall be reduced so that it is only ninety  
9 percent of the actuarial equivalent of the benefit the member is  
10 receiving just after the death of the member's named beneficiary.

11 (e) (1) In the case of a member who has elected an option set  
12 forth in subdivision (a) or (b) of this section, and designated his  
13 or her spouse as beneficiary, upon divorce, the retirant may elect  
14 to change the retirement benefit options offered by those  
15 subdivisions to a life annuity in an amount adjusted on a fair  
16 basis to be of equal actuarial value of the annuity prospectively  
17 in effect relative to the retirant at the time the option is  
18 elected: Provided, That the retirant furnishes to the board  
19 satisfactory proof of entry of a final decree of divorce or  
20 annulment: Provided, however, That the retirant certifies under  
21 penalty of perjury that no qualified domestic relations order,  
22 final decree of divorce, or other court order that would restrict  
23 the election is in effect: Provided further, That no cause of  
24 action against the board arises or may be maintained on the basis

1 of having permitted the retirant to name a new spouse as annuitant  
2 for any of the survivorship retirement benefit options.

3 (2) Upon remarriage, a retirant may name the new spouse as an  
4 annuitant for any of the retirement benefit options offered by  
5 subdivision (a) or (b) of this section: *Provided*, That the  
6 retirant shall furnish to the board proof of marriage: *Provided*,  
7 however, That the retirant certifies under penalty of perjury that  
8 no qualified domestic relations order, final decree of divorce or  
9 other court order that would restrict the designation is in effect:  
10 *Provided further*, That no cause of action against the board arises  
11 or may be maintained on the basis of having permitted the retirant  
12 to name a new spouse as annuitant for any of the survivorship  
13 retirement benefit options. The value of the new survivorship  
14 annuity shall be the actuarial equivalent of the retirant's benefit  
15 prospectively in effect at the time the new annuity is elected.

NOTE: The purpose of this bill is to modify the Deputy Sheriff Retirement System to allow a retirant, upon divorce, to change the retirement benefit options under certain circumstances.

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