

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 369

(By Senators Unger and Snyder)

[Originating in the Committee on Banking and Insurance;
reported January 31, 2012.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

§7-14D-12. Annuity options.

- 1 (a) Prior to the effective date of retirement, but not
- 2 thereafter, except as provided in subsection (c) of this section,

3 a member may elect to receive retirement income payments
4 in the normal form, or the actuarial equivalent of the normal
5 form from the following options:

6 ~~(a)~~ (1) *Option A — Joint and Survivor Annuity.* — A life
7 annuity payable during the joint lifetime of the member and
8 his or her beneficiary who is a natural person with an
9 insurable interest in the member's life. Upon the death of
10 either the member or his or her beneficiary, the benefit shall
11 continue as a life annuity to the survivor in an amount equal
12 to fifty percent, sixty-six and two-thirds percent, sev-
13 enty-five percent or one hundred percent of the amount paid
14 while both were living as selected by the member. If the
15 retiring member is married, the spouse shall sign a waiver of
16 benefit rights if the beneficiary is to be other than the
17 spouse.

18 ~~(b)~~ (2) *Option B — Contingent Joint and Survivor*
19 *Annuity.* — A life annuity payable during the joint lifetime
20 of the member and his or her beneficiary who must be a
21 natural person with an insurable interest in the member's
22 life. Upon the death of the member, the benefit shall con-
23 tinue as a life annuity to the beneficiary in an amount equal
24 to fifty percent, sixty-six and two-thirds percent, sev-

25 enty-five percent or one hundred percent of the amount paid
26 while both were living as selected by the member. If the
27 beneficiary dies first, the monthly amount of benefits may
28 not be reduced, but shall be paid at the amount that was in
29 effect before the death of the beneficiary. If the retiring
30 member is married, the spouse shall sign a waiver of benefit
31 rights if the beneficiary is to be other than the spouse.

32 ~~(c)~~ (3) *Option C — Ten Years Certain and Life Annuity.*
33 — A life annuity payable during the member's lifetime but in
34 any event for a minimum of ten years. If the member dies
35 before the expiration of ten years, the remaining payments
36 shall be made to a designated beneficiary, if any, or other-
37 wise to the member's estate.

38 ~~(d)~~ (4) *Option D — Level Income Annuity.* — A life
39 annuity payable monthly in an increased amount "A" from
40 the time of retirement until the member is Social Security
41 retirement age, and then a lesser amount "B" payable for the
42 member's lifetime thereafter, with these amounts computed
43 actuarially to satisfy the following two conditions:

44 ~~(1)~~ (A) *Actuarial equivalence.* — The actuarial present
45 value at the date of retirement of the member's annuity if
46 taken in the normal form must equal the actuarial present

47 value of the term life annuity in amount "A" plus the actual
48 present value of the deferred life annuity in amount "B"; and
49 ~~(2)~~ (B) *Level income*. — The amount "A" equals the
50 amount "B" plus the amount of the member's estimated
51 monthly Social Security primary insurance amount that
52 would commence at the date amount "B" becomes payable.
53 For this calculation, the primary insurance amount is
54 estimated when the member applies for retirement, using
55 Social Security law then in effect, using assumptions
56 established by the board.

57 (b) In the case of a member who has elected the options
58 set forth in subdivisions(a)(1) ~~and (b)~~ or (2) of this section,
59 ~~respectively~~, and whose beneficiary dies prior to the mem-
60 ber's death, the member may name an alternative benefi-
61 ciary. If an alternative beneficiary is named within eighteen
62 months following the death of the prior beneficiary, the
63 benefit shall be adjusted to be the actuarial equivalent of the
64 benefit the member is receiving just after the death of the
65 member's named beneficiary. If the election is not made until
66 eighteen months after the death of the prior beneficiary, the
67 amount shall be reduced so that it is only ninety percent of

68 the actuarial equivalent of the benefit the member is receiv-
69 ing just after the death of the member's named beneficiary.

70 (c) (1) In the case of a retired member who has elected an
71 option set forth in subdivision (a)(1) or (2) of this section, and
72 designated his or her spouse as beneficiary, upon divorce, the
73 retirant may elect to change the retirement benefit options
74 offered by those subdivisions to a life annuity in an amount
75 adjusted on a fair basis to be of equal actuarial value of the
76 annuity prospectively in effect relative to the retirant at the
77 time the option is elected: *Provided*, That the retirant
78 furnishes to the board satisfactory proof of entry of a final
79 decree of divorce or annulment: *Provided, however*, That the
80 retirant certifies under penalty of perjury that no qualified
81 domestic relations order, final decree of divorce or other
82 court order that would restrict the election is in effect:
83 *Provided further*, That no cause of action against the board
84 arises or may be maintained on the basis of having permitted
85 the retirant to name a new spouse as annuitant for any of the
86 survivorship retirement benefit options.

87 (2) Upon remarriage, a retirant may name the new spouse
88 as an annuitant for any of the retirement benefit options
89 offered by subdivision (a)(1) or (2) of this section: *Provided*,

90 That the retirant shall furnish to the board proof of mar-
91 riage: *Provided, however,* That the retirant certifies under
92 penalty of perjury that no qualified domestic relations order,
93 final decree of divorce or other court order that would
94 restrict the designation is in effect: *Provided further,* That no
95 cause of action against the board arises or may be main-
96 tained on the basis of having permitted the retirant to name
97 a new spouse as annuitant for any of the survivorship
98 retirement benefit options. The value of the new survivorship
99 annuity shall be the actuarial equivalent of the retirant's
100 benefit prospectively in effect at the time the new annuity is
101 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.)