

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 369

(SENATORS UNGER AND SNYDER, *original sponsors*)

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT 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, annulment or remarriage to change the retirement benefit options under certain circumstances; and prohibiting causes of action against the board based upon such changes.

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

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

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

44 (A) *Actuarial equivalence.* — The actuarial present value
45 at the date of retirement of the member’s annuity if taken in
46 the normal form must equal the actuarial present value of
47 the term life annuity in amount “A” plus the actual present
48 value of the deferred life annuity in amount “B”; and

49 (B) *Level income.* — The amount “A” equals the amount
50 “B” plus the amount of the member’s estimated monthly
51 Social Security primary insurance amount that would
52 commence at the date amount “B” becomes payable. For this
53 calculation, the primary insurance amount is estimated when
54 the member applies for retirement, using Social Security law
55 then in effect, using assumptions established by the board.

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

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

82 *Provided further*, That no cause of action against the board
83 arises or may be maintained on the basis of having permitted
84 the retirant to change the retirement benefit option pursuant
85 to the provisions of this subdivision.

86 (2) Upon remarriage, a retirant may name the new spouse
87 as an annuitant for any of the retirement benefit options
88 offered by subdivision (a)(1) or (2) of this section: *Provided*,
89 That the retirant shall furnish to the board proof of mar-
90 riage: *Provided, however*, That the retirant certifies under
91 penalty of perjury that no qualified domestic relations order,
92 final decree of divorce or other court order that would
93 restrict the designation is in effect: *Provided further*, That no
94 cause of action against the board arises or may be main-
95 tained on the basis of having permitted the retirant to name
96 a new spouse as annuitant for any of the survivorship
97 retirement benefit options. The value of the new survivorship
98 annuity shall be the actuarial equivalent of the retirant's
99 benefit prospectively in effect at the time the new annuity is
100 elected.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2012.

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Governor