

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5267**

By Delegates Gearheart, C. Pritt, Anderson, Griffith,

Kump, Marple, and Williams

[By Request of the Consolidated Public Retirement  
Board]

[Introduced January 29, 2024; Referred to the  
Committee on Pensions and Retirement then  
Finance]

1 A BILL to amend and reenact §7-14D-13, §7-14D-18, §7-14D-19, and §7-14D-24a of the Code of  
 2 West Virginia, 1931, as amended, all relating to the Deputy Sheriff Retirement System;  
 3 clarifying payment upon death of member with less than 10 years of contributory service;  
 4 clarifying surviving spouse benefits when member dies from duty or non-duty related  
 5 cause; and clarifying age calculation for a member who elected early retirement who then  
 6 returned to work.

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

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

**§7-14D-13. Refunds to certain members upon discharge or resignation; deferred retirement; preretirement death; forfeitures.**

1 (a) Any member who terminates covered employment and is not eligible to receive  
 2 disability or retirement income benefits under this article is, by written request filed with the board,  
 3 entitled to receive from the fund the member’s accumulated contributions after offset of any  
 4 outstanding loan balance, plus accrued interest, pursuant to §7-14D-23 of this code. Except as  
 5 provided in subsection (b) of this section, upon withdrawal the member shall forfeit his or her  
 6 accrued benefit and cease to be a member.

7 (b) Any member of this plan who ceases employment in covered employment and active  
 8 participation in this plan, and who thereafter becomes reemployed in covered employment may  
 9 not receive any credited service for any prior withdrawn or offset accumulated contributions from  
 10 either this plan or the Public Employees Retirement System relating to the prior covered  
 11 employment unless following his or her return to covered employment and active participation in  
 12 this plan, the member redeposits in this plan the amount of the withdrawn accumulated  
 13 contributions submitted on salary earned while a deputy sheriff, together with interest on the  
 14 accumulated contributions at the rate determined by the board from the date of withdrawal to the  
 15 date of redeposit. Upon repayment he or she shall receive the same credit on account of his or her  
 16 former service in covered employment as if no refund had been made. The repayment authorized

17 by this subsection shall be made in a lump sum within 60 months of the deputy sheriff's  
18 reemployment in covered employment or if later, within 60 months of the effective date of this  
19 article.

20 (c) A member of this plan who has elected to transfer from the Public Employees  
21 Retirement System into this plan pursuant to §7-14D-5(b) of this code may not, after having  
22 transferred into and become an active member of this plan, reinstate to his or her credit in this plan  
23 any service credit relating to periods of nondeputy sheriff service which were withdrawn from the  
24 Public Employees Retirement System plan prior to his or her elective transfer into this plan.

25 (d) Every member who completes 60 months of covered employment is eligible, upon  
26 cessation of covered employment, to either withdraw his or her accumulated contributions in  
27 accordance with subsection (a) of this section, or to choose not to withdraw his or her accumulated  
28 contribution and to receive retirement income payments upon attaining normal retirement age.

29 (e) In the event a member dies from any cause other than those specified in §7-14D-18 of  
30 this code and does not have 10 or more years of ~~credited~~ contributory service, the member's  
31 accumulated contributions may be paid to a named beneficiary or beneficiaries. If no beneficiary is  
32 named, then the accumulated contributions shall be paid to the estate of the deceased member.

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

**§7-14D-18. Awards and benefits to surviving spouse – When member dies in performance  
of duty, etc.**

1 (a) The surviving spouse of any member who ~~after the effective date of this article while in~~  
2 ~~covered employment, has died or dies~~ by reason of injury, illness or disease resulting from an  
3 occupational risk or hazard inherent in or peculiar to the service required of members, while the  
4 member was or is engaged in the performance of his or her duties as a deputy sheriff, or the  
5 survivor spouse of a member who dies from any cause while receiving benefits pursuant to section

6 fourteen of this article, is entitled to receive and shall be paid from the fund benefits as determined  
7 in subsection (b) of this section: To the surviving spouse annually, in equal monthly installments  
8 during his or her lifetime an amount equal to the greater of: (i) Two thirds of the annual  
9 compensation received ~~in the preceding twelve-month period~~ by the deceased member during the  
10 last 12 full months of contributory service; or (ii) if the member dies after ~~his or her~~ meeting early or  
11 normal retirement age requirements, the monthly amount which the spouse would have received  
12 had the member retired the day before his or her death, elected a one hundred percent joint and  
13 survivor annuity with the spouse as the joint annuitant, and then died.

14 (b) Benefits for a surviving spouse received under this section, section twenty and section  
15 twenty-one of this article are in lieu of receipt of any other benefits under this article for the spouse  
16 or any other person or under the provisions of any other state retirement system based upon the  
17 member's covered employment.

**§7-14D-19. Awards and benefits to surviving spouse – when member dies from nonservice-  
connected causes.**

1 (a) In any case where a member who has been a contributing member for at least 10 years  
2 ~~while in covered employment after the effective date of this article, has died or dies~~ prior to  
3 retirement from any cause other than those specified in §7-14D-18 of this code and not due to  
4 vicious habits, intemperance, or willful misconduct on his or her part, the fund shall pay annually in  
5 equal monthly installments to the surviving spouse during his or her lifetime, a sum equal to the  
6 greater of: (i) One half of the annual compensation received ~~in the preceding 12-month~~  
7 ~~employment period~~ by the deceased member during the last 12 full months of contributory service;  
8 or (ii) if the member dies after ~~his or her~~ meeting early or normal retirement age requirements, the  
9 monthly amount which the spouse would have received had the member retired the day before his  
10 or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint  
11 annuitant, and then died.

12           (b) In any case where a retired member who had been a contributing member for at least  
13 10 years, had not obtained the age of 60 and was receiving benefits pursuant to section 15 of this  
14 article dies and leaves a surviving spouse, the fund shall pay annually in equal monthly  
15 installments to the surviving spouse during his or her lifetime a sum equal to the greater of: (i) One  
16 half of the annual compensation received by the deceased member during the last 12 full months  
17 of contributory service; or (ii) if the member dies after meeting early or normal retirement age  
18 requirements, the monthly amount which the spouse would have received had the member retired  
19 the day before his or her death, elected a 100 percent joint and survivor annuity with the spouse as  
20 the joint annuitant, and then died.

21           (b) (c) Benefits for a surviving spouse received under this section, §7-14D-20, and §7-14D-  
22 21 of this code are in lieu of receipt of any other benefits under this article for the spouse or any  
23 other person or under the provisions of any other state retirement system based upon the  
24 member's covered employment.

**§7-14D-24a. Return to covered employment by retired member.**

1           (a) The annuity of any member who retires under the provisions of this article and who  
2 resumes service in covered employment shall be suspended while the member continues in  
3 covered employment. The monthly annuity payment for the month in which the service resumes  
4 shall be prorated to the date of commencement of service, and the member shall again become a  
5 contributing member during resumption of service. At the conclusion of resumed service in  
6 covered employment the member shall have his or her annuity recalculated to take into account  
7 the entirety of service in covered employment.

8           (b) Notwithstanding the provisions of subsection (a) of this section, the annuity of a  
9 member who retires under the provisions of this article shall not be suspended if the member  
10 resumes covered employment and the following conditions are met:

11           (1) The member has been retired for at least 180 days;

12 (2) The retired member did not retire as a result of a disability pursuant to the provisions of  
13 §7-14D-14 of this code;

14 (3) The retired member is a certified, or certifiable, law-enforcement officer as provided in  
15 §30-29-5 of this code;

16 (4) The sheriff of the county seeking to re-employ the retired member has fewer than five  
17 deputies in his or her employ and has been unable to recruit additional qualified deputy sheriffs  
18 despite the exercise of due diligence;

19 (5) The re-employment of the retired member is for a period not to exceed five years or until  
20 such time as the sheriff may recruit additional deputy sheriffs to provide for five full-time deputy  
21 sheriffs not hired pursuant to this subsection, whichever is sooner; and the sheriff is required to  
22 post the vacancy until it is filled by a non-retirant;

23 (6) The retired member may not again become a contributing member of the Deputy Sheriff  
24 Retirement System while performing services under the provisions of this subsection; and

25 (7) The employer of any deputy sheriff rehired pursuant to this subsection shall remit an  
26 employer contribution pursuant to §7-14D-7 of this code on the deputy sheriff's monthly salary.

27 (c) Any retired member who is seeking re-employment pursuant to the provisions of this  
28 section shall not be subject to the maximum age restriction set forth in §7-14-8 of this code.

29 (d) Unless acted upon by the Legislature, the provisions of subsections (b) and (c) of this  
30 section will sunset on July 1, 2026. On or before October 1, 2025, any employer of a member of  
31 the Deputy Sheriff Retirement System rehired pursuant to subsection (b) of this section must make  
32 a report to the Joint Standing Committee on Pensions and Retirement.

33 (e) Any member who retired under the early retirement provisions of §7-14D-11(b) of this  
34 code, and is subsequently reemployed in covered employment pursuant to subsection (a) of this  
35 section, and who again retires shall have his or her retirement annuity recalculated as if he or she  
36 were retiring at an age calculated by adding his or her original early retirement age to the number

37 of years and months during which he or she was reemployed and contributing to the plan. In the  
38 event the artificially determined age, as determined in accordance with the preceding sentence,  
39 exceeds 60, the board shall not make any reduction for early retirement.

NOTE: The purpose of this bill is to clarify DSRS surviving spouse benefits when member dies from duty or non-duty related cause, and to clarify how to compute a retiree's age when a member elected an early retirement and then returned to work.

This bill was recommended for passage in the 2024 regular session of the Legislature by the Consolidated Public Retirement Board.

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