

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5267

(By Request of the Consolidated Public Retirement
Board)

[Originating in the Committee on Finance; Reported
on February 7, 2024]

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 providing payment upon death of member with less than 10 years of contributory service;
4 providing surviving spouse benefits when member dies from duty or non-duty related
5 cause; and providing 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9 not receive any credited service for any prior withdrawn or offset accumulated contributions from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12 this plan, the member redeposits in this plan the amount of the withdrawn accumulated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~~ §7-14D-14 of this code, is entitled to receive and shall be paid from the fund

7 benefits as ~~determined in subsection (b) of this section~~ follows: To the surviving spouse annually,
8 in equal monthly installments during his or her lifetime an amount equal to the greater of: (i) Two
9 thirds of the annual compensation received ~~in the preceding twelve-month period~~ by the deceased
10 member during the last 12 full months of contributory service; or (ii) if the member dies after his or
11 ~~her~~ meeting early or normal retirement age requirements, the monthly amount which the spouse
12 would have received had the member retired the day before his or her death, elected a one
13 hundred percent joint and 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~~ §7-14D-20 and §7-14D-21 of this code are in lieu of receipt of any other
16 benefits under this article for the spouse or any other person or under the provisions of any other
17 state retirement system based upon the 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 §7-14D-15 of this

14 code dies and leaves a surviving spouse, the fund shall pay annually in equal monthly installments
15 to the surviving spouse during his or her lifetime a sum equal to the greater of: (i) One half of the
16 annual compensation received by the deceased member during the last 12 full months of
17 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.