

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5674

FISCAL
NOTE

By Delegates Dean, Ward, Bridges, Vance, Kelly,
Kirby, and Pinson

[Introduced February 13, 2024; Referred to the
Committee on Pensions and Retirement then
Finance] A BILL to amend and reenact §7-14D-5 of the
Code of West Virginia, 1931, as amended, relating to the
Deputy Sheriff Retirement System Act; and permitting
deputy sheriffs to retire after 20 years of honorable and
actual service, with full benefits.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

§7-14D-5. Members.

- 1 (a) Any deputy sheriff first employed by a county in covered employment after the effective
- 2 date of this article shall be a member of this retirement system and does not qualify for
- 3 membership in any other retirement system administered by the board, so long as he or she

4 remains employed in covered employment: *Provided*, That any deputy sheriff who has concurrent
5 employment in an additional job or jobs which would require the deputy sheriff to be a member of
6 the West Virginia Municipal Police Officers and Firefighters Retirement System, the West Virginia
7 Emergency Medical Services Retirement System or the West Virginia Natural Resources Police
8 Officers Retirement System shall participate in only one retirement system administered by the
9 board, and the retirement system applicable to the concurrent employment for which the employee
10 has the earliest date of hire shall prevail. The membership of any person in the plan ceases: (1)
11 Upon the withdrawal of accumulated contributions after the cessation of service; (2) upon
12 retirement; (3) at death; or (4) upon the date, if any, when after the cessation of service, the
13 outstanding balance of any loan obtained by the member pursuant to §7-14D-23 of this code, plus
14 accrued interest, equals or exceeds the accumulated contributions of the member.

15 (b) Any deputy sheriff employed in covered employment on the effective date of this article
16 shall within six months of that effective date notify in writing both the county commission in the
17 county in which he or she is employed and the board, of his or her desire to become a member of
18 the plan: *Provided*, That this time period is extended to January 30, 1999, in accordance with the
19 decision of the Supreme Court of Appeals in *West Virginia Deputy Sheriffs' Association, et al v.*
20 *James L. Sims, et al*, No. 25212: *Provided, however*, That any deputy sheriff employed in covered
21 employment on the effective date of this article has an additional time period consisting of the 10-
22 day period following the day after which the amended provisions of this section become law to
23 notify in writing both the county commission in the county in which he or she is employed and the
24 board of his or her desire to become a member of the plan. Any deputy sheriff who elects to
25 become a member of the plan ceases to be a member or have any credit for covered employment
26 in any other retirement system administered by the board and shall continue to be ineligible for
27 membership in any other retirement system administered by the board so long as the deputy
28 sheriff remains employed in covered employment in this plan: *Provided further*, That any deputy
29 sheriff who elects during the time period from July 1, 1998 to January 30, 1999 or who so elects

30 during the 10-day time period occurring immediately following the day after the day the
31 amendments made during the 1999 legislative session become law, to transfer from the Public
32 Employees Retirement System to the plan created in this article shall contribute to the plan
33 created in this article at the rate set forth in §7-14D-7 of this code retroactive to July 1, 1998. Any
34 deputy sheriff who does not affirmatively elect to become a member of the plan continues to be
35 eligible for any other retirement system as is from time to time offered to other county employees
36 but is ineligible for this plan regardless of any subsequent termination of employment and rehire.

37 (c) Any deputy sheriff employed in covered employment on the effective date of this article
38 who has timely elected to transfer into this plan as provided in subsection (b) of this section shall
39 be given credited service at the time of transfer for all credited service then standing to the deputy
40 sheriff's service credit in the Public Employees Retirement System regardless of whether the
41 credited service (as that term is defined in §5-10-2 of this code) was earned as a deputy sheriff. All
42 the credited service standing to the transferring deputy sheriff's credit in the Public Employees
43 Retirement Fund System at the time of transfer into this plan shall be transferred into the plan
44 created by this article, and the transferring deputy sheriff shall be given the same credit for the
45 purposes of this article for all service transferred from the Public Employees Retirement System as
46 that transferring deputy sheriff would have received from the Public Employees Retirement
47 System as if the transfer had not occurred. In connection with each transferring deputy sheriff
48 receiving credit for prior employment as provided in this subsection, a transfer from the Public
49 Employees Retirement System to this plan shall be made pursuant to the procedures described in
50 §7-14D-8 of this code: *Provided*, That a member of this plan who has elected to transfer from the
51 Public Employees Retirement System into this plan pursuant to subsection (b) of this section may
52 not, after having transferred into and become an active member of this plan, reinstate to his or her
53 credit in this plan any service credit relating to periods of nondeputy sheriff service which were
54 withdrawn from the Public Employees Retirement System prior to his or her elective transfer into
55 this plan.

56 (d) Any deputy sheriff who was employed as a deputy sheriff prior to the effective date of
57 this article, but was not employed as a deputy sheriff on the effective date of this article, shall
58 become a member upon rehire as a deputy sheriff. For purposes of this subsection, the member's
59 years of service and credited service in the Public Employees Retirement System prior to the
60 effective date of this article shall not be counted for any purposes under this plan unless: (1) The
61 deputy sheriff has not received the return of his or her accumulated contributions in the Public
62 Employees Retirement System pursuant to §5-10-30 of this code; or (2) the accumulated
63 contributions returned to the member from the Public Employees Retirement System have been
64 repaid pursuant to §7-14D-13 of this code. If the conditions of subdivision (1) or (2) of this
65 subsection are met, all years of the deputy sheriff's covered employment shall be counted as years
66 of service for the purposes of this article.

67 (e) Once made, the election provided in this section is irrevocable. All deputy sheriffs first
68 employed after the effective date and deputy sheriffs electing to become members as described in
69 this section shall be members as a condition of employment and shall make the contributions
70 required by §7-14D-7 of this code.

71 (f) Notwithstanding any other provisions of this article, any individual who is a leased
72 employee is not eligible to participate in the plan. For purposes of this plan, a "leased employee"
73 means any individual who performs services as an independent contractor or pursuant to an
74 agreement with an employee leasing organization or similar organization. If a question arises
75 regarding the status of an individual as a leased employee, the board has final power to decide the
76 question.

77 (g) Notwithstanding any provision of this code to the contrary, a deputy sheriff may retire
78 after 20 years of honorable and actual service, with full benefits under the provisions of §7-14D-1
79 et seq. of this code. The West Virginia Deputy Sheriffs Retirement System shall propose rules for
80 legislative approval in accordance with §29A-3-1 et seq. of this code designed to implement this
81 subsection.

NOTE: The purpose of this bill is to permit deputy sheriffs to retire after 20 years of honorable and actual service, with full benefits.

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