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Senate Bill No. 221

(By Senators Foster and Plymale)

[Introduced January 20, 2011; referred to the Committee on
Pensions; then to the Committee on Finance.]

**FISCAL
NOTE**

10 A BILL to amend and reenact §7-14D-7 of the Code of West Virginia,
11 1931, as amended, relating to the authority of the West
12 Virginia Consolidated Public Retirement Board to determine the
13 participating employer contribution rate for the Deputy
14 Sheriff Retirement System.

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

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

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

19 **§7-14D-7. Members' contributions; employer contributions.**

20 (a) There shall be deducted from the monthly salary of each
21 member and paid into the fund an amount equal to eight and one-half
22 percent of his or her monthly salary. An additional amount shall
23 be paid to the fund by the county commission of the county in which
24 the member is employed in covered employment in an amount determined

1 by the board. ~~Provided, That in no year may the total of the~~
2 ~~contributions provided in this section, to be paid by the county~~
3 ~~commission, exceed ten and one-half percent of the total payroll for~~
4 ~~the members in the employ of the county commission~~ If the board
5 finds that the benefits provided by this article can be actually
6 funded with a lesser contribution, then the board shall reduce the
7 required member or employer contributions or both. The sums
8 withheld each calendar month shall be paid to the fund no later than
9 fifteen days following the end of the calendar month.

10 (b) Any active member who has concurrent employment in an
11 additional job or jobs and the additional employment requires the
12 deputy sheriff to be a member of another retirement system which is
13 administered by the Consolidated Public Retirement Board pursuant
14 to article ten-d, chapter five of this code shall make an additional
15 contribution to the fund of eight and one half percent of his or her
16 monthly salary earned from any additional employment which requires
17 the deputy sheriff to be a member of another retirement which is
18 administered by the Consolidated Public Retirement Board pursuant
19 to article ten-d, chapter five of this code. An additional amount
20 shall be paid to the fund by the concurrent employer for which the
21 member is employed in an amount determined by the board. ~~Provided,~~
22 ~~That in no year may the total of the contributions provided in this~~
23 ~~section, to be paid by the concurrent employer, exceed ten and one-~~
24 ~~half percent of the monthly salary of the employee~~ If the board
25 finds that the benefits provided by this article can be funded with

1 a lesser contribution, then the board shall reduce the required
2 member or employer contributions or both. The sums withheld each
3 calendar month shall be paid to the fund no later than fifteen days
4 following the end of the calendar month.

5 (c) Based on the provisions of section three, article fourteen-
6 d, chapter seven of this code, the participating public employers'
7 contributions to the retirement system, as determined by the
8 Consolidated Public Retirement Board by legislative rule promulgated
9 in accordance with the provisions of article three, chapter twenty-
10 nine-a of this code, shall be a percent of the members' monthly
11 salary related to benefits under this retirement system. In
12 determining the amount, the board shall give consideration to
13 setting the amount at a sum equal to an amount which will be
14 sufficient to provide for the total normal cost of the benefits
15 expected to become payable to all members and to amortize any
16 unfunded liability found by application of the actuarial funding
17 method chosen for that purpose by the Consolidated Public Retirement
18 Board, over a period of years determined actuarially appropriate.
19 When proposing a rule for promulgation which relates to the amount
20 of employer contribution, the board may promulgate emergency rules
21 pursuant to the provisions of article three, chapter twenty-nine-a
22 of this code, if the inability of the board to increase employer
23 contributions will detrimentally affect the actuarial soundness of
24 the retirement system. A signed statement from the state actuary
25 shall accompany the statement of facts and circumstances

1 constituting an emergency which shall be filed in the State
2 Register. For purposes of this section, subdivision (2), subsection
3 (b), section fifteen-a, article three, chapter twenty-nine-a of this
4 code is not applicable to the Secretary of State's determination of
5 whether an emergency rule should be approved.

6 ~~(c)~~ (d) If any change or employer error in the records of any
7 participating public employer or the retirement system results in
8 any member receiving from the system more or less than he or she
9 would have been entitled to receive had the records been correct,
10 the board shall correct the error, and as far as is practicable
11 shall adjust the payment of the benefit in a manner that the
12 actuarial equivalent of the benefit to which the member was
13 correctly entitled shall be paid. Any employer error resulting in
14 an underpayment to the retirement system may be corrected by the
15 member remitting the required employee contribution and the
16 participating public employer remitting the required employer
17 contribution. Interest shall accumulate in accordance with the
18 retirement board reinstatement interest as established in
19 Legislative Rule 162 CSR 7, and any accumulating interest owed on
20 the employee and employer contributions resulting from the employer
21 error shall be the responsibility of the participating public
22 employer. The participating public employer may remit total payment
23 and the employee reimburse the participating public employer through
24 payroll deduction over a period equivalent to the time period during
25 which the employer error occurred.

NOTE: The purpose of this bill is to clarify the authority of the West Virginia Consolidated Public Retirement Board to determine the participating employer contribution rate under the provisions of the Deputy Sheriff Retirement System and to remove the ten and one-half percent cap on total employer contributions paid by the county commissions and concurrent employers.

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