

1 **ENROLLED**

2 **Senate Bill No. 563**

3 (By SENATORS FOSTER, EDGELL, WELLS, McCABE AND PALUMBO)

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5 [Passed March 12, 2011; in effect ninety days from passage.]
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10 AN ACT to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §8-22-25a, relating
12 to authorizing municipalities to create deferred retirement
13 option plans for certain employees.

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

15 That the Code of West Virginia, 1931, as amended, be amended
16 by adding thereto a new section, designated §8-22-25a, to read as
17 follows:

18 **ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION**
19 **AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF**
20 **FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS**
21 **SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND**
22 **SEWERAGE SYSTEM.**

23 §8-22-25a. Deferred Retirement Option Plans; Authorization;
24 Requirements; Limitations.

25 (a) A deferred retirement option plan is a method to encourage
26 retention of a worker beyond normal retirement age by permitting

1 the worker to freeze retirement benefits at a certain time prior to
2 ceasing work, to continue to work for a specified period and to
3 have retirement benefits which accrue while the employee continues
4 working set aside in an account which the worker will then receive
5 in a lump sum upon finally discontinuing work. The Legislature
6 acknowledges that a deferred retirement option plan, or "DROP", may
7 be a useful and economical tool for retaining experienced and
8 trained employees and for planning for turnovers in the workforce.
9 Experience, however, dictates that a deferred retirement option
10 plan may place a heavy financial burden on the employer and the
11 affected retirement system, negating any positive benefit offered
12 by the DROP if the DROP is not carefully planned to be economically
13 favorable to the employer and revenue neutral for the affected
14 retirement system while remaining attractive to the targeted
15 employee.

16 (b) (1) The governing bodies of municipalities participating
17 in policemen's and firemen's pension and relief funds pursuant to
18 sections sixteen through twenty-eight of this article, are
19 authorized to voluntarily offer deferred retirement option plans.
20 A participating municipality may design and establish a DROP to
21 best meet the municipality's needs so long as the DROP complies
22 with federal law, the requirements set forth in this section and
23 approved by the Municipal Pensions Oversight Board.

24 (2) Prior to approval by the Municipal Pensions Oversight
25 Board, a municipality shall submit a proposed DROP to the board for
26 analysis by the qualified actuary retained or employed by the

1 board. The actuary shall examine the plan and, in light of the
2 elements of the DROP and the actuarial projections of the impact of
3 the DROP on the affected pension and relief fund, advise the board
4 of the anticipated impact on the Municipal Pension and Relief Fund.
5 The board shall seek to approve only those DROP plans which, in the
6 best judgement of the actuary, are designed to have no negative
7 impact on the member's pension and relief fund. The submitting
8 municipality shall reimburse the board for actuarial costs of
9 analyzing the plan.

10 (c) To be eligible to enter a DROP plan, the member of the
11 policemen's or firemen's pension and relief fund must be in active
12 employment and an active member of his or her pension and relief
13 fund for at least six months beyond attaining eligibility for
14 regular retirement as provided in section twenty-five of this
15 article and have received a satisfactory performance evaluation
16 within the prior twelve months. The member may defer retirement
17 for a period of not less than one nor more than five years but must
18 complete the period by age sixty-five. The member may elect to
19 commence participation from July 1, 2011, through June 30, 2016.
20 Members not meeting the eligibility requirement by June 30, 2016,
21 are not eligible to participate in the DROP.

22 (d) (1) During the DROP participation period, the member shall
23 continue with full-time employment in a covered position subject to
24 the municipality's requirements. A member's retirement benefits
25 are calculated as of the DROP participation date and a member may
26 not accumulate additional retirement benefits during the DROP

1 participation period. Upon beginning participation, the member is
2 treated as retired and receiving benefits for purposes of the
3 retirement system and for purposes of distributing premium tax
4 proceeds through the Municipal Pensions Security Fund. During the
5 participation period, the employer shall continue to make regular
6 contributions to the employee's pension and relief fund.

7 (2) Benefit payments are accumulated for the member in the
8 pension and relief fund in an accumulation account during the DROP
9 participation period. At the end of the participation period, the
10 amount in the accumulation account owing to the member, plus
11 interest not to exceed three and one-half percent, shall be paid to
12 the member in a lump sum. Monthly retirement payments shall be
13 paid directly to the member starting in the month following the end
14 of the DROP participation period.

15 (3) A member may voluntarily terminate DROP participation
16 early with sixty days advance notice. Deferred accumulated
17 benefits will be paid with no interest for the DROP period and
18 benefits payments will commence following the early termination
19 date. Covered employment must terminate before benefit
20 distributions may be made. Should the employer wish to terminate
21 the employment during the participation period, the member may
22 terminate participation with thirty days notice and the deferred
23 accumulation balance shall be paid with interest according to the
24 DROP design: *Provided*, That if the employee is terminated for cause
25 during the participation period, the member may terminate
26 participation with thirty days notice and the deferred accumulation

1 balance shall be paid without interest according to the DROP design

2 (4) A member who is unable to continue working because of
3 disability shall cease participation the first day of the month
4 following notice of disability to the employer and the pension and
5 relief fund. The accumulation account balance shall be paid to the
6 member with no interest. No additional benefits are due the member
7 on account of the disability.

8 (5) In the event of death of a member during DROP
9 participation, the accumulation account of the member through the
10 member's date of death is payable to the members beneficiary or
11 beneficiaries, with interest according to DROP design.

12 (6) A member entering the DROP is contractually obligated to
13 terminate employment at the end of the DROP participation period.
14 Failure to terminate voluntarily results in termination of
15 employment, for cause, except that a member who continues to work
16 with the consent of the employer past the DROP participation period
17 shall have all benefits frozen during the extension period and no
18 additional benefit accumulates. During the period of time the
19 member continues to work beyond the end of the DROP participation
20 period with the consent of the employer, the employer shall
21 continue to make regular contributions to the employee's pension
22 and relief fund. Regular retirement benefits will commence the
23 month following eventual employment termination or death. The
24 member's accumulation account balance is frozen in value following
25 the end of the DROP participation period.

26 (e) Pursuant to section twenty-three, article one, chapter

1 four of this code, the oversight board shall annually report to the
2 Legislature's Joint Committee on Pensions and Retirement on
3 deferred retirement option plans submitted to the board for
4 approval and the status of any DROP that has been approved,
5 including any experienced impact on an affected pension and relief
6 fund.