

Senate Bill No. 563

(By Senators Foster, Edgell, Wells, McCabe and Palumbo)

[Introduced February 21, 2011; referred to
the Committee on Pensions; and then to
the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22-25a, relating to authorizing municipalities to create deferred retirement option plans for certain employees.

Be it enacted by the Legislature of West Virginia:

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

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

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

1 (a) A deferred retirement option plan is a method to
2 encourage retention of a worker beyond normal retirement
3 age by permitting the worker to freeze retirement benefits at
4 a certain time prior to ceasing work, to continue to work for
5 a specified period and to have retirement benefits which
6 accrue while the employee continues working set aside in an
7 account which the worker will then receive in a lump sum
8 upon finally discontinuing work. The Legislature acknowl-
9 edges that a deferred retirement option plan, or “DROP”,
10 may be a useful and economical tool for retaining experi-
11 enced and trained employees and for planning for turnovers
12 in the workforce. Experience, however, dictates that a
13 deferred retirement option plan may place a heavy financial
14 burden on the employer and the affected retirement system,
15 negating any positive benefit offered by the DROP if the
16 DROP is not carefully planned to be economically favorable
17 to the employer and revenue neutral for the affected retire-
18 ment system while remaining attractive to the targeted
19 employee.

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

29 (2) Prior to approval by the Municipal Pensions Oversight
30 Board, a municipality shall submit a proposed DROP to the
31 board for analysis by the qualified actuary retained or
32 employed by the board. The actuary shall examine the plan
33 and, in light of the elements of the DROP and the actuarial
34 projections of the impact of the DROP on the affected
35 pension and relief fund, advise the board of the anticipated
36 impact on the Municipal Pension and Relief Fund. The board
37 shall seek to approve only those DROP plans which, in the
38 best judgement of the actuary, are designed to have no
39 negative impact on the member's pension and relief fund.
40 The submitting municipality shall reimburse the board for
41 actuarial costs of analyzing the plan.

42 (c) To be eligible to enter a DROP plan, the member of the
43 policemen's or firemen's pension and relief fund must be in
44 active employment and an active member of his or her
45 pension and relief fund for at least six months beyond
46 attaining eligibility for regular retirement as provided in
47 section twenty-five of this article and have received a
48 satisfactory performance evaluation within the prior twelve
49 months. The member may defer retirement for a period of not
50 less than one nor more than five years but must complete the
51 period by age sixty-five. The member may elect to commence
52 participation from July 1, 2011, through June 30, 2016.
53 Members not meeting the eligibility requirement by June 30,
54 2016, are not eligible to participate in the DROP.

55 (d)(1) During the DROP participation period, the member
56 shall continue with full-time employment in a covered
57 position subject to the municipality's requirements. A
58 member's retirement benefits are calculated as of the DROP
59 participation date and a member may not accumulate
60 additional retirement benefits during the DROP participa-
61 tion period. Upon beginning participation, the member is
62 treated as retired and receiving benefits for purposes of the
63 retirement system and for purposes of distributing premium

64 tax proceeds through the Municipal Pensions Security Fund.
65 During the participation period, the employer shall continue
66 to make regular contributions to the employee's pension and
67 relief fund.

68 (2) Benefit payments are accumulated for the member in
69 the pension and relief fund in an accumulation account
70 during the DROP participation period. At the end of the
71 participation period, the amount in the accumulation
72 account owing to the member, plus interest not to exceed
73 three and one-half percent, shall be paid to the member in a
74 lump sum. Monthly retirement payments shall be paid
75 directly to the member starting in the month following the
76 end of the DROP participation period.

77 (3) A member may voluntarily terminate DROP participa-
78 tion early with sixty days advance notice. Deferred accumu-
79 lated benefits will be paid with no interest for the DROP
80 period and benefits payments will commence following the
81 early termination date. Covered employment must terminate
82 before benefit distributions may be made. Should the
83 employer wish to terminate the employment during the
84 participation period, the member may terminate participa-
85 tion with thirty days notice and the deferred accumulation

86 balance shall be paid with interest according to the DROP
87 design.

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

94 (5) In the event of death of a member during DROP
95 participation, the accumulation account of the member
96 through the member's date of death is payable to the mem-
97 bers beneficiary or beneficiaries, with interest according to
98 DROP design.

99 (6) A member entering the DROP is contractually obligated
100 to terminate employment at the end of the DROP participa-
101 tion period. Failure to terminate voluntarily results in
102 termination of employment, for cause, except that a member
103 who continues to work with the consent of the employer past
104 the DROP participation period shall have all benefits frozen
105 during the extension period and no additional benefit
106 accumulates. Regular retirement benefits will commence the
107 month following eventual employment termination or death.

108 The member's accumulation account balance is frozen in
109 value following the end of the DROP participation period.

110 (e) Pursuant to section twenty-three, article one, chapter
111 four of this code, the oversight board shall annually report to
112 the Legislature's Joint Committee on Pensions and Retirement
113 on deferred retirement option plans submitted to the
114 board for approval and the status of any DROP that has been
115 approved, including any experienced impact on an affected
116 pension and relief fund.

(NOTE: The purpose of this bill is to authorize municipalities participating in municipal policemen's and firemen's pension and relief funds to design and implement Deferred Retirement Option Plans for fund members with approval of the Municipal Pensions Oversight Board.

This section is new; therefore, strike-throughs and underscoring have been omitted.)