

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 369**

5 (SENATORS UNGER AND SNYDER, *original sponsors*)

6 _____
7 [Passed March 10, 2012; in effect ninety days from passage.]
8 _____
9

10 AN ACT to amend and reenact §7-14D-12 of the Code of West Virginia,
11 1931, as amended, relating to modifying the Deputy Sheriff
12 Retirement System to allow a retirant upon divorce, annulment
13 or remarriage to change the retirement benefit options under
14 certain circumstances; and prohibiting causes of action
15 against the board based upon such changes.

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

17 That §7-14D-12 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

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

20 **§7-14D-12. Annuity options.**

21 (a) Prior to the effective date of retirement, but not
22 thereafter, except as provided in subsection (c) of this section, a
23 member may elect to receive retirement income payments in the
24 normal form, or the actuarial equivalent of the normal form from
25 the following options:

1 (1) *Option A -- Joint and Survivor Annuity.* -- A life annuity
2 payable during the joint lifetime of the member and his or her
3 beneficiary who is a natural person with an insurable interest in
4 the member's life. Upon the death of either the member or his or
5 her beneficiary, the benefit shall continue as a life annuity to
6 the survivor in an amount equal to fifty percent, sixty-six and
7 two-thirds percent, seventy-five percent or one hundred percent of
8 the amount paid while both were living as selected by the member.
9 If the retiring member is married, the spouse shall sign a waiver
10 of benefit rights if the beneficiary is to be other than the
11 spouse.

12 (2) *Option B -- Contingent Joint and Survivor Annuity.* -- A
13 life annuity payable during the joint lifetime of the member and
14 his or her beneficiary who must be a natural person with an
15 insurable interest in the member's life. Upon the death of the
16 member, the benefit shall continue as a life annuity to the
17 beneficiary in an amount equal to fifty percent, sixty-six and
18 two-thirds percent, seventy-five percent or one hundred percent of
19 the amount paid while both were living as selected by the member.
20 If the beneficiary dies first, the monthly amount of benefits may
21 not be reduced, but shall be paid at the amount that was in effect
22 before the death of the beneficiary. If the retiring member is
23 married, the spouse shall sign a waiver of benefit rights if the
24 beneficiary is to be other than the spouse.

25 (3) *Option C -- Ten Years Certain and Life Annuity.* -- A life
26 annuity payable during the member's lifetime but in any event for

1 a minimum of ten years. If the member dies before the expiration
2 of ten years, the remaining payments shall be made to a designated
3 beneficiary, if any, or otherwise to the member's estate.

4 (4) *Option D -- Level Income Annuity.* -- A life annuity
5 payable monthly in an increased amount "A" from the time of
6 retirement until the member is Social Security retirement age, and
7 then a lesser amount "B" payable for the member's lifetime
8 thereafter, with these amounts computed actuarially to satisfy the
9 following two conditions:

10 (A) *Actuarial equivalence.* -- The actuarial present value at
11 the date of retirement of the member's annuity if taken in the
12 normal form must equal the actuarial present value of the term life
13 annuity in amount "A" plus the actual present value of the deferred
14 life annuity in amount "B"; and

15 (B) *Level income.* -- The amount "A" equals the amount "B"
16 plus the amount of the member's estimated monthly Social Security
17 primary insurance amount that would commence at the date amount "B"
18 becomes payable. For this calculation, the primary insurance
19 amount is estimated when the member applies for retirement, using
20 Social Security law then in effect, using assumptions established
21 by the board.

22 (b) In the case of a member who has elected the options set
23 forth in subdivisions(a)(1) or (2) of this section, and whose
24 beneficiary dies prior to the member's death, the member may name
25 an alternative beneficiary. If an alternative beneficiary is named
26 within eighteen months following the death of the prior

1 beneficiary, the benefit shall be adjusted to be the actuarial
2 equivalent of the benefit the member is receiving just after the
3 death of the member's named beneficiary. If the election is not
4 made until eighteen months after the death of the prior
5 beneficiary, the amount shall be reduced so that it is only ninety
6 percent of the actuarial equivalent of the benefit the member is
7 receiving just after the death of the member's named beneficiary.

8 (c) (1) In the case of a retired member who has elected an
9 option set forth in subdivision (a) (1) or (2) of this section, and
10 designated his or her spouse as beneficiary, upon divorce or
11 annulment, the retirant may elect to change the retirement benefit
12 options offered by those subdivisions to a life annuity in an
13 amount adjusted on a fair basis to be of equal actuarial value of
14 the annuity prospectively in effect relative to the retirant at the
15 time the option is elected: *Provided*, That the retirant furnishes
16 to the board satisfactory proof of entry of a final decree of
17 divorce or annulment: *Provided, however*, That the retirant
18 certifies under penalty of perjury that no qualified domestic
19 relations order, final decree of divorce or other court order that
20 would restrict the election is in effect: *Provided further*, That no
21 cause of action against the board arises or may be maintained on
22 the basis of having permitted the retirant to change the retirement
23 benefit option pursuant to the provisions of this subdivision.

24 (2) Upon remarriage, a retirant may name the new spouse as an
25 annuitant for any of the retirement benefit options offered by
26 subdivision (a) (1) or (2) of this section: *Provided*, That the

1 retirant shall furnish to the board proof of marriage: *Provided,*
2 *however,* That the retirant certifies under penalty of perjury that
3 no qualified domestic relations order, final decree of divorce or
4 other court order that would restrict the designation is in effect:
5 *Provided further,* That no cause of action against the board arises
6 or may be maintained on the basis of having permitted the retirant
7 to name a new spouse as annuitant for any of the survivorship
8 retirement benefit options. The value of the new survivorship
9 annuity shall be the actuarial equivalent of the retirant's benefit
10 prospectively in effect at the time the new annuity is elected.