

H. B. 4573

(By Delegate Azinger)
[Introduced February 17, 2012; referred to the
Committee on Pensions and Retirement.]

A BILL to amend and reenact §5-10-24 of the Code of West Virginia,
1931, as amended, relating to requiring spouse approval of
election of annuity option.

Be it enacted by the Legislature of West Virginia:

That §5-10-24 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-24. Annuity options.

(a) (1) Prior to retirement a member may elect and receive an
annuity in accordance with any of the annuity options provided in
this section, if the member provides evidence satisfactory to the
retirement board that the spouse has approved of the member's
choice of option. If the required evidence is not provided to the
retirement board, upon retirement, the retirant shall receive an

1 annuity in accordance with a default selection of Option B of
2 subdivision (2) of this subsection, with the spouse named as the
3 beneficiary.

4 ~~(a)~~(2) Subject to subdivision (1) of this subsection, prior to
5 the effective date of his or her retirement, but not thereafter
6 except upon the death of a spouse, a member may elect to receive
7 his or her annuity as a straight life annuity payable throughout
8 his or her life, or he or she may elect to receive the actuarial
9 equivalent, at the time, of his or her straight life annuity in a
10 reduced annuity payable throughout his or her life, and nominate a
11 beneficiary, in accordance with option A or B set forth below:

12 *Option A -- Joint and survivor annuity.* -- Upon the death of
13 a retirant who elected option A, his or her reduced annuity shall
14 be continued throughout the life of and paid to the beneficiary,
15 having an insurable interest in the retirant's life, whom the
16 retirant nominated by written designation duly executed and filed
17 with the board of trustees prior to the effective date of his or
18 her retirement; or

19 *Option B -- Modified joint and survivor annuity.* -- Upon the
20 death of a retirant who elected option B, one half of his or her
21 reduced annuity shall be continued throughout the life of and paid
22 to the beneficiary, having an insurable interest in the retirant's
23 life, whom the retirant nominated by written designation duly
24 executed and filed with the board of trustees prior to the

1 effective date of his or her retirement.

2 (b) Upon the death of a spouse, a retirant may elect any of
3 the retirement options offered by the provisions of this section in
4 an amount adjusted on a fair basis to be of equal actuarial value
5 as the annuity prospectively in effect relative to the retirant at
6 the time the new option is elected.

7 (c) Upon divorce, a retirant may elect to change any of the
8 retirement benefit options offered by the provisions of this
9 section to a life annuity in an amount adjusted on a fair basis to
10 be of equal actuarial value of the annuity prospectively in effect
11 relative to the retirant at the time the option is elected:
12 *Provided*, That the retirant furnishes to the board satisfactory
13 proof of entry of a final decree of divorce or annulment:
14 *Provided, however*, That the retirant certifies under penalty of
15 perjury that no qualified domestic relations order, final decree of
16 divorce, or other court order that would restrict the election is
17 in effect: *Provided further*, That no cause of action against the
18 board may then arise or be maintained on the basis of having
19 permitted the retirant to name a new spouse as annuitant for any of
20 the survivorship retirement benefit options.

21 (d) Upon remarriage, a retirant may name the new spouse as an
22 annuitant for any of the retirement benefit options offered by the
23 provisions of this section: *Provided*, That the retirant shall
24 furnish to the board proof of marriage: *Provided, however*, That

1 the retirant certifies under penalty of perjury that no qualified
2 domestic relations order, final decree of divorce or other court
3 order that would restrict the designation is in effect: *Provided*
4 *further*, That no cause of action against the board may then arise
5 or be maintained on the basis of having permitted the retirant to
6 name a new spouse as annuitant for any of the survivorship
7 retirement benefit options. If the retirant does not provide
8 evidence satisfactory to the retirement board that the spouse has
9 approved of the member's choice of option, the new survivorship
10 option shall be by default Option B as provided in subdivision (2),
11 subsection (a) of this section. The value of the new survivorship
12 annuity shall be the actuarial equivalent of the retirant's benefit
13 prospectively in effect at the time the new annuity is elected.

NOTE: The purpose of this bill is to require that the annuity option of a modified joint and survivor annuity shall be the default option for retirees in the Public Employees Retirement System unless the spouse of the retiring member approves a different annuity option.

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