

Adopted by House 4-12-2013

SB394 HFIN AM 4-10

The Committee on Finance moves to amend the bill on page one, by striking out everything after the enacting clause, and inserting in lieu thereof the following:

1 "That §5-10-27 of the Code of West Virginia, 1931, as amended,
2 be amended and reenacted; that §7-14D-20 of said code be amended
3 and reenacted; that §8-22A-22 of said code be amended and
4 reenacted; that §15-2-33 of said code be amended and reenacted; and
5 that §15-2A-12 of said code be amended and reenacted, all to read
6 as follows:

7 **ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

8 **§5-10-27. Preretirement death annuities.**

9 (a) (1) Except as otherwise provided in this section, in the
10 event any member who has ten or more years of credited service or
11 any former member with ten or more years of credited service and
12 who is entitled to a deferred annuity, pursuant to section twenty-
13 one of this article, may at any time prior to the effective date of
14 his or her retirement, by written declaration duly executed and
15 filed with the board of trustees, in the same manner as if he or
16 she were then retiring from the employ of a participating public
17 employer, elect option A provided in section twenty-four of this
18 article and nominate a beneficiary whom the board finds to have had
19 an insurable interest in the life of the member. Prior to the
20 effective date of his or her retirement, a member may revoke his or

1 her election of option A and nomination of beneficiary and he or
2 she may again prior to his or her retirement elect option A and
3 nominate a beneficiary as provided in this subsection. Upon the
4 death of a member who has an option A election in force, his or her
5 beneficiary, if living, shall immediately receive an annuity
6 computed in the same manner in all respects as if the same member
7 had retired the day preceding the date of his or her death,
8 notwithstanding that he or she might not have attained age sixty
9 years, and elected the said option A. If at the time of his or her
10 retirement a member has an option A election in force, his or her
11 election of option A and nomination of beneficiary shall thereafter
12 continue in force. As an alternative to annuity option A, a member
13 or former member may elect to have the preretirement death benefit
14 paid as a return of accumulated contributions in a lump sum amount
15 to any beneficiary or beneficiaries he or she chooses.

16 (2) In the event any member or former member, who first became
17 a member of the Public Employees Retirement System after the
18 effective date of amendments made to this section during the 2006
19 regular legislative session and who has ten or more years of
20 credited service and who is entitled to a deferred annuity,
21 pursuant to section twenty-one of this article: Dies without
22 leaving a surviving spouse; but leaves surviving him or her a child
23 who is financially dependent on the member by virtue of a permanent
24 mental or physical disability upon evidence satisfactory to the
25 board; and has named the disabled child as sole beneficiary, the
26 disabled child shall immediately receive an annuity computed in the

1 same manner in all respects as if the member had: (A) Retired the
2 day preceding the date of his or her death, notwithstanding that he
3 or she might not have attained age sixty or sixty-two years, as the
4 case may be; (B) elected option A provided in section twenty-four
5 of this article; and (C) nominated his or her disabled child as
6 beneficiary. A member or former member with ten or more years of
7 credited service, who does not leave surviving him or her a spouse
8 or a disabled child, may elect to have the preretirement death
9 benefit paid as a return of accumulated contributions in a lump sum
10 amount to any beneficiary or beneficiaries he or she chooses.

11 (b) (1) In the event any member who has ten or more years of
12 credited service, or any former member with ten or more years of
13 credited service and who is entitled to a deferred annuity,
14 pursuant to section twenty-one of this article: Dies; and leaves
15 a surviving spouse, the surviving spouse shall immediately receive
16 an annuity computed in the same manner in all respects as if the
17 member had: (A) Retired the day preceding the date of his or her
18 death, notwithstanding that he or she might not have attained age
19 sixty or sixty-two years, as the case may be; (B) elected option A
20 provided in section twenty-four of this article; and (C) nominated
21 his or her surviving spouse as beneficiary. However, the surviving
22 spouse shall have the right to waive the annuity provided in this
23 section: *Provided*, That he or she executes a valid and notarized
24 waiver on a form provided by the board and that the member or
25 former member attests to the waiver. If the waiver is presented to
26 and accepted by the board, the member or former member, may

1 nominate a beneficiary who has an insurable interest in the
2 member's or former member's life. As an alternative to annuity
3 option A, the member or former member may elect to have the
4 preretirement death benefit paid as a return of accumulated
5 contributions in a lump sum amount to any beneficiary or
6 beneficiaries he or she chooses in the event a waiver, as provided
7 in this section, has been presented to and accepted by the board.

8 (2) Whenever any member or former member who first became a
9 member of the retirement system after the effective date of the
10 amendments to this section made during the 2006 regular legislative
11 session and who has ten or more years of credited service and who
12 is entitled to a deferred annuity, pursuant to section twenty-one
13 of this article: Dies; and leaves a surviving spouse, the
14 surviving spouse shall immediately receive an annuity computed in
15 the same manner in all respects as if the member had: (A) Retired
16 the day preceding the date of his or her death, notwithstanding
17 that he or she might not have attained age sixty or sixty-two
18 years, as the case may be; (B) elected option A provided in section
19 twenty-four of this article; and (C) nominated his or her surviving
20 spouse as beneficiary. However, the surviving spouse shall have
21 the right to waive the annuity provided in this section: *Provided,*
22 That he or she executes a valid and notarized waiver on a form
23 provided by the board and that the member or former member attests
24 to the waiver. If the waiver is presented to and accepted by the
25 board, the member or former member may: (1) Elect to have the
26 preretirement death benefit paid in a lump sum amount, rather than

1 annuity option A provided in section twenty-four of this article,
2 as a return of accumulated contributions to any beneficiary or
3 beneficiaries he or she chooses; or (2) may name his or her
4 surviving child, who is financially dependent on the member by
5 virtue of a permanent mental or physical disability, as his or her
6 sole beneficiary to receive an annuity computed in the same manner
7 in all respects as if the member had: (A) Retired the day
8 preceding the date of his or her death, notwithstanding that he or
9 she might not have attained the age of sixty or sixty-two as the
10 case may be; (B) elected option A provided in section twenty-four
11 of this article; and (C) nominated his or her disabled child as
12 beneficiary.

13 (c) In the event any member who has ten or more years of
14 credited service or any former member with ten or more years of
15 credited service and who is entitled to a deferred annuity,
16 pursuant to section twenty-one of this article: (1) Dies without
17 leaving surviving him or her a spouse; but (2) leaves surviving him
18 or her an infant child or children; and (3) does not have a
19 beneficiary nominated as provided in subsection (a) of this
20 section, the infant child or children are entitled to an annuity to
21 be calculated as follows: The annuity reserve shall be calculated
22 as though the member had retired as of the date of his or her
23 decease and elected a straight life annuity and the amount of the
24 annuity reserve shall be paid in equal monthly installments to the
25 member's infant child or children until the child or children
26 attain age twenty-one or sooner marry or become emancipated;

1 however, in no event shall any child or children receive more than
2 \$250 per month each. The annuity payments shall be computed as of
3 the date of the death of the member and the amount of the annuity
4 shall remain constant during the period of payment. The annual
5 amount of the annuities payable by this section shall not exceed
6 sixty percent of the deceased member's final average salary.

7 (d) In the event any member or former member does not have ten
8 or more years of credited service, no preretirement death annuity
9 may be authorized, owed or awarded under this section, except as
10 provided in subdivision (4), subsection (a), section fifteen of
11 this article as amended during the 2005 regular session of the
12 Legislature.

13 (e) Any person qualified as a surviving dependent child under
14 this section, who is the surviving dependent child of a law
15 enforcement officer who loses his or her life in the performance of
16 duty, in addition to any other benefits due under this or other
17 sections of this article, is entitled to receive a scholarship to
18 be applied to the career development education of that person.
19 This sum, up to but not exceeding \$7,500 per year, shall be paid
20 from the fund to any higher education institution in this state,
21 career-technical education provider in this state, or other entity
22 in this state approved by the board, to offset the expenses of
23 tuition, room and board, books, fees or other costs incurred in a
24 course of study at any of those institutions so long as the
25 recipient makes application to the board on an approved form and
26 under rules as provided by the board and maintains scholastic

1 eligibility as defined by the institution or the board. The board
2 may by appropriate rules define age requirements, physical and
3 mental requirements, scholastic eligibility, disbursement methods,
4 institutional qualifications and other requirements as necessary
5 and not inconsistent with this section.

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

7 **§7-14D-20. Additional death benefits and scholarships -- Dependent**
8 **children.**

9 (a) In addition to the spouse death benefits in sections
10 eighteen and nineteen of this article, the surviving spouse is
11 entitled to receive and there shall be paid to the spouse \$100
12 monthly for each dependent child.

13 (b) If the surviving spouse dies or if there is no surviving
14 spouse, the fund shall pay monthly to each dependent child a sum
15 equal to one fourth of the surviving spouse's entitlement under
16 either section nineteen or twenty of this article. If there is
17 neither a surviving spouse nor a dependent child, the fund shall
18 pay in equal monthly installments to the dependent parents of the
19 deceased member during their joint lifetimes a sum equal to the
20 amount which a surviving spouse, without children, would have
21 received: *Provided*, That when there is only one dependent parent
22 surviving, that parent is entitled to receive during his or her
23 lifetime one-half the amount which both parents, if living, would
24 have been entitled to receive: *Provided, however*, That if there is
25 no surviving spouse, dependent child, nor dependent parent of the

1 deceased member the accumulated contributions shall be paid to a
2 named beneficiary or beneficiaries: *Provided further,* That if
3 there is no surviving spouse, dependent child, nor dependent parent
4 of the deceased member, nor any named beneficiary or beneficiaries
5 then the accumulated contributions shall be paid to the estate of
6 the deceased member.

7 (c) Any person qualifying as a dependent child under this
8 section, in addition to any other benefits due under this or other
9 sections of this article, is entitled to receive a scholarship to
10 be applied to the career development education of that person.
11 This sum, up to but not exceeding ~~\$6,000~~ \$7,500 per year, shall be
12 paid from the fund to any ~~university or college in this state or to~~
13 ~~any trade or vocational school~~ higher education institution in this
14 state, career-technical education provider in this state, or other
15 entity in this state approved by the board, to offset the expenses
16 of tuition, room and board, books, fees or other costs incurred in
17 a course of study at any of these institutions so long as the
18 recipient makes application to the board on an approved form and
19 under such rules as the board may provide, and maintains scholastic
20 eligibility as defined by the institution or the board. The board
21 may propose legislative rules for promulgation in accordance with
22 article three, chapter twenty-nine-a of this code which define age
23 requirements, physical and mental requirements, scholastic
24 eligibility, disbursement methods, institutional qualifications and
25 other requirements as necessary and not inconsistent with this
26 section.

1 **§8-22A-22. Additional death benefits and scholarships -- Dependent**
2 **children.**

3 (a) Except as provided in subsection (a), section nine of this
4 article, in addition to the spouse death benefits in this article,
5 the surviving spouse is entitled to receive and there shall be paid
6 to the spouse \$100 monthly for each dependent child.

7 (b) If the surviving spouse dies or if there is no surviving
8 spouse, the fund shall pay monthly to each dependent child a sum
9 equal to one hundred percent of the spouse's entitlement under this
10 article divided by the number of dependent children. If there is
11 neither a surviving spouse nor a dependent child, the fund shall
12 pay in equal monthly installments to the dependent parents of the
13 deceased member during their joint lifetimes a sum equal to the
14 amount which a surviving spouse, without children, would have
15 received: *Provided*, That when there is only one dependent parent
16 surviving, that parent is entitled to receive during his or her
17 lifetime one-half the amount which both parents, if living, would
18 have been entitled to receive: *Provided, however*, That if there is
19 no surviving spouse, dependent child or dependent parent of the
20 deceased member, the accumulated contributions shall be paid to a
21 named beneficiary or beneficiaries: *Provided further*, That if
22 there is no surviving spouse, dependent child or dependent parent
23 of the deceased member, or any named beneficiary or beneficiaries,
24 then the accumulated contributions shall be paid to the estate of
25 the deceased member.

1 (c) Any person qualifying as a dependent child under this
2 section, in addition to any other benefits due under this or other
3 sections of this article, is entitled to receive a scholarship to
4 be applied to the career development education of that person.
5 This sum, up to but not exceeding ~~\$6,000~~ \$7,500 per year, shall be
6 paid from the fund to any ~~university or college in this state or to~~
7 ~~any trade or vocational school~~ higher education institution in this
8 state, career-technical education provider in this state, or other
9 entity in this state approved by the board, to offset the expenses
10 of tuition, room and board, books, fees or other costs incurred in
11 a course of study at any of these institutions so long as the
12 recipient makes application to the board on an approved form and
13 under rules provided by the board and maintains scholastic
14 eligibility as defined by the institution or the board. The board
15 may propose legislative rules for promulgation in accordance with
16 article three, chapter twenty-nine-a of this code which define age
17 requirements, physical and mental requirements, scholastic
18 eligibility, disbursement methods, institutional qualifications and
19 other requirements as necessary and not inconsistent with this
20 section.

21 **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

22 **§15-2-33. Awards and benefits to dependents of member when the**
23 **member dies in performance of duty; to dependents of**
24 **a duty disability retirant; dependent child**
25 **scholarship and amount.**

1 (a) The surviving spouse or the dependent child or children or
2 dependent parent or parents of any member who has lost or loses his
3 or her life by reason of injury, illness or disease resulting from
4 an occupational risk or hazard inherent in or peculiar to the
5 service required of employees while the member was or is engaged in
6 the performance of his or her duties as an employee of the agency,
7 or if a retirant dies from any cause after having been retired
8 pursuant to the provisions of section twenty-nine of this article,
9 the surviving spouse or other dependent is entitled to receive and
10 shall be paid from the fund benefits as follows: To the surviving
11 spouse annually, in equal monthly installments during his or her
12 lifetime the greater of one or the other of two amounts:

13 (1) An amount equal to five and one-half percent of the total
14 salary which was or would have been earned by the deceased member
15 or duty disability retirant during twenty-five years of service
16 based on the average earnings of the member or duty disability
17 retirant while employed by the agency; or

18 (2) The sum of \$6,000.

19 (b) In addition, the surviving spouse is entitled to receive
20 and shall be paid \$100 monthly for each dependent child or
21 children. If the surviving spouse dies or if there is no surviving
22 spouse, there shall be paid monthly to each dependent child or
23 children from the fund a sum equal to twenty-five percent of the
24 surviving spouse's entitlement. If there is no surviving spouse
25 and no dependent child or children, there shall be paid annually in
26 equal monthly installments from the fund to the dependent parents

1 of the deceased member or retirant during their joint lifetimes a
2 sum equal to the amount which a surviving spouse, without children,
3 would have received: *Provided*, That when there is one dependent
4 parent surviving, that parent is entitled to receive during his or
5 her lifetime one half the amount which both parents, if living,
6 would have been entitled to receive.

7 (c) Any person qualified as a surviving dependent child under
8 this section, in addition to any other benefits due under this or
9 other sections of this article, is entitled to receive a
10 scholarship to be applied to the career development education of
11 that person. This sum, up to but not exceeding \$7,500 per year,
12 shall be paid from the fund to any ~~university or college in this~~
13 ~~state or to any trade or vocational school~~ higher education
14 institution in this state, career-technical education provider in
15 this state, or other entity in this state approved by the board, to
16 offset the expenses of tuition, room and board, books, fees or
17 other costs incurred in a course of study at any of those
18 institutions so long as the recipient makes application to the
19 board on an approved form and under rules as provided by the board
20 and maintains scholastic eligibility as defined by the institution
21 or the board. The board may by appropriate rules define age
22 requirements, physical and mental requirements, scholastic
23 eligibility, disbursement methods, institutional qualifications and
24 other requirements as necessary and not inconsistent with this
25 section.

26 (d) A surviving spouse or dependent of an employee meeting the

1 requirements of this section is entitled to receive beneficiary
2 payments on the first day following the date the deceased employee
3 is removed from payroll by the agency. A surviving spouse or
4 dependent of a member who is not currently an employee meeting the
5 requirements of this section is entitled to receive beneficiary
6 payments on the first day following the date of the deceased
7 member's death. A surviving spouse or dependent of a retirant
8 meeting the requirements of this section is entitled to receive
9 beneficiary payments on the first day of the month following the
10 date of the deceased retirant's death. Upon receipt of properly
11 executed forms from the agency and the surviving spouse or
12 dependent, the board shall process the surviving spouse or
13 dependent benefit as soon as administratively feasible.

14 (e) For the purposes of this section, the term "salary" does
15 not include any compensation paid for overtime service.

16 **ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

17 **§15-2A-12. Awards and benefits to dependents of employees or**
18 **retirants - When employee dies in performance of**
19 **duty, etc.; dependent child scholarship and amount.**

20 The surviving spouse, the dependent child or children or
21 dependent parent or parents of any employee who has lost or shall
22 lose his or her life by reason of injury, illness or disease
23 resulting from an occupational risk or hazard inherent in or
24 peculiar to the service required of employees while the employee
25 was engaged in the performance of his or her duties as an employee

1 of the agency, or the survivor of a retirant who dies from any
2 cause after having been retired pursuant to the provisions of
3 section nine of this article, is entitled to receive and shall be
4 paid from the fund benefits as follows: To the surviving spouse
5 annually, in equal monthly installments during his or her lifetime,
6 one or the other of two amounts, which shall become payable the
7 first day of the month following the employee's or retirant's death
8 and which shall be the greater of:

9 (1) An amount equal to nine-tenths of the base salary received
10 in the preceding full twelve-month employment period by the
11 deceased employee: *Provided*, That if the employee had not been
12 employed with the agency for twelve full months prior to his or her
13 death, the amount of monthly salary shall be annualized for the
14 purpose of determining the benefit; or

15 (2) The sum of \$10,000.

16 In addition, the surviving spouse is entitled to receive and
17 shall be paid \$150 monthly for each dependent child. If the
18 surviving spouse dies or if there is no surviving spouse, there
19 shall be paid monthly to each dependent child or children from the
20 fund a sum equal to one third of the surviving spouse's
21 entitlement. If there is no surviving spouse and no dependent
22 child or children, there shall be paid annually in equal monthly
23 installments from the fund to the dependent parents of the deceased
24 member during their joint lifetimes a sum equal to the amount which
25 a surviving spouse, without children, would have received:
26 *Provided*, That when there is one dependent parent surviving, that

1 parent is entitled to receive during his or her lifetime one half
2 the amount which both parents, if living, would have been entitled
3 to receive: *Provided, however,* That if there is no surviving
4 spouse, dependent child or dependent parent of the deceased member,
5 the accumulated contributions shall be paid to a named beneficiary
6 or beneficiaries: *Provided further,* That if there is no surviving
7 spouse, dependent child, dependent parent of the deceased member or
8 any named beneficiary or beneficiaries, then the accumulated
9 contributions shall be paid to the estate of the deceased member.

10 Any person qualifying as a surviving dependent child under
11 this section, in addition to any other benefits due under this or
12 other sections of this article, is entitled to receive a
13 scholarship to be applied to the career development education of
14 that person. This sum, up to but not exceeding \$7,500 per year,
15 shall be paid from the fund to any ~~university or college in this~~
16 ~~state or to any trade or vocational school~~ higher education
17 institution in this state, career-technical education provider in
18 this state, or other entity in this state approved by the board to
19 offset the expenses of tuition, room and board, books, fees or
20 other costs incurred in a course of study at any of these
21 institutions as long as the recipient makes application to the
22 board on an approved form and under rules provided by the board and
23 maintains scholastic eligibility as defined by the institution or
24 the board. The board may by appropriate rules define age
25 requirements, physical and mental requirements, scholastic
26 eligibility, disbursement methods, institutional qualifications and

1 other requirements as necessary and not inconsistent with this
2 section.

3 A surviving spouse or dependent of an employee meeting the
4 requirements of this section is entitled to receive beneficiary
5 payments on the first day of the month following the date the
6 deceased member is removed from payroll by the agency. A surviving
7 spouse or dependent of a member who is not currently an employee
8 meeting the requirements of this section is entitled to receive
9 beneficiary payments on the first day of the month following the
10 date of the deceased member's death. A surviving spouse or
11 dependent of a retirant meeting the requirements of this section is
12 entitled to receive beneficiary payments on the first day of the
13 month following the date of the deceased retirant's death. Upon
14 receipt of properly executed forms from the agency and surviving
15 spouse or dependent, the board shall process the surviving spouse
16 or dependent benefit as soon as administratively feasible.

17 It is the intent of the Legislature that the levels of
18 benefits provided by operation of this section from the effective
19 date of the enactment of this section during the regular session of
20 the Legislature, 2005, be the same levels of benefits as provided
21 by this section as amended and reenacted during the fourth
22 extraordinary session of the Legislature, 2005. Accordingly, the
23 effective date of the operation of this section as amended and
24 reenacted during the fourth extraordinary session of the
25 Legislature, 2005, is expressly made retrospective to April 9,
26 2005."