

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2138**

By Delegate Toney

[Introduced January 11, 2023; Referred to the  
Committee on Pensions and Retirement then  
Finance]

1 A BILL to amend and reenact §18-7A-28 of the Code of West Virginia, 1931, as amended, relating  
 2 to the State Teachers Retirement System; options to beneficiaries; and authorizing a  
 3 change of options because of death of beneficiary with a joint life annuity, within the first  
 4 five years of retirement.

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

**ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

**§18-7A-28. Options to beneficiaries; change of certain options because of divorce or annulment; limitation on recalculated monthly benefits.**

1 The retirement board is hereby authorized to offer plans, optional with the beneficiary, for  
 2 the payment of allowances due ~~such~~ the beneficiary for retirement, withdrawal, or prior service  
 3 pensions under the retirement system. No plans ~~shall~~ may be offered, however, which are not  
 4 approved by competent actuaries.

5 When a beneficiary and his or her spouse have been approved for a retirement plan which  
 6 provides for them a joint life annuity, and (1) their marriage is subsequently dissolved; or (2) the  
 7 spouse dies during the first five years of the beneficiary's retirement, the board shall permit ~~such~~  
 8 the beneficiary to convert to the maximum life annuity plan approved by the board: *Provided*, That  
 9 the beneficiary shall furnish to the board: (1) proof of entry of a final decree of divorce or  
 10 annulment; or (2) proof of the spouse's death: *Provided, however,* That a beneficiary who qualifies  
 11 for the change of retirement plans afforded by this section shall be permitted only one such  
 12 change: *Provided further,* That the recalculated monthly benefits, independently of increases  
 13 granted by law after the beneficiary's retirement, ~~shall~~ may not exceed the monthly benefits which  
 14 would have been applicable under the maximum life annuity plan at the time the beneficiary  
 15 retired; and with ~~such~~ the recalculation to be effective on the first day of the month following  
 16 submission to the board by the beneficiary of proof of entry of a final decree of divorce or  
 17 annulment.

18 Upon remarriage, a retirant may name the new spouse as an annuitant for any of the

19 survivorship retirement benefit options offered by the provisions of this section: *Provided*, That the  
20 beneficiary shall furnish to the retirement board satisfactory proof of the marriage: *Provided*,  
21 *however*, That the retirant certifies under penalty of perjury that no qualified domestic relations  
22 order that would restrict such a designation is in effect: *Provided further*, That no cause or action  
23 against the board may then arise or be maintained on the basis of having permitted the retirant to  
24 name a new spouse as annuitant for any of the survivorship retirement benefit options. The value  
25 of the new survivorship annuity shall be the actuarial equivalent of the retirant's benefit  
26 prospectively in effect at the time the new annuity is elected.

NOTE: The purpose of this bill is to permit a beneficiary under the State Teachers Retirement System who has been approved for a retirement with a joint life annuity to convert to the maximum life annuity if the spouse dies within the first five years of the beneficiary's retirement.

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