

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 609**

BY SENATORS NELSON, PLYMALE, DEEDS, TAKUBO,  
HUNT, AND HAMILTON

[Introduced January 31, 2024; referred  
to the Committee on Pensions; and then to the  
Committee on Finance]



1 A BILL to amend and reenact §7-14D-13, §7-14D-18, §7-14D-19, and §7-14D-24a of the Code of  
2 West Virginia, 1931, as amended, all relating to the Deputy Sheriff Retirement System;  
3 clarifying payment upon death of member with less than 10 years of contributory service;  
4 clarifying surviving spouse benefits when member dies from duty or non-duty related  
5 cause; and clarifying age calculation for a member who elected early retirement who then  
6 returned to work.

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

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

**§7-14D-13. Refunds to certain members upon discharge or resignation; deferred retirement; preretirement death; forfeitures.**

1 (a) Any member who terminates covered employment and is not eligible to receive  
2 disability or retirement income benefits under this article is, by written request filed with the board,  
3 entitled to receive from the fund the member's accumulated contributions after offset of any  
4 outstanding loan balance, plus accrued interest, pursuant to §7-14D-23 of this code. Except as  
5 provided in subsection (b) of this section, upon withdrawal the member shall forfeit his or her  
6 accrued benefit and cease to be a member.

7 (b) Any member of this plan who ceases employment in covered employment and active  
8 participation in this plan, and who thereafter becomes reemployed in covered employment may  
9 not receive any credited service for any prior withdrawn or offset accumulated contributions from  
10 either this plan or the Public Employees Retirement System relating to the prior covered  
11 employment unless following his or her return to covered employment and active participation in  
12 this plan, the member redeposits in this plan the amount of the withdrawn accumulated  
13 contributions submitted on salary earned while a deputy sheriff, together with interest on the  
14 accumulated contributions at the rate determined by the board from the date of withdrawal to the  
15 date of redeposit. Upon repayment he or she shall receive the same credit on account of his or  
16 her former service in covered employment as if no refund had been made. The repayment

17 authorized by this subsection shall be made in a lump sum within 60 months of the deputy sheriff's  
18 reemployment in covered employment or if later, within 60 months of the effective date of this  
19 article.

20 (c) A member of this plan who has elected to transfer from the Public Employees  
21 Retirement System into this plan pursuant to §7-14D-5(b) of this code may not, after having  
22 transferred into and become an active member of this plan, reinstate to his or her credit in this  
23 plan any service credit relating to periods of nondeputy sheriff service which were withdrawn from  
24 the Public Employees Retirement System plan prior to his or her elective transfer into this plan.

25 (d) Every member who completes 60 months of covered employment is eligible, upon  
26 cessation of covered employment, to either withdraw his or her accumulated contributions in  
27 accordance with subsection (a) of this section, or to choose not to withdraw his or her accumulated  
28 contribution and to receive retirement income payments upon attaining normal retirement age.

29 (e) In the event a member dies from any cause other than those specified in §7-14D-18 of  
30 this code and does not have 10 or more years of ~~credited~~ contributory service, the member's  
31 accumulated contributions may be paid to a named beneficiary or beneficiaries. If no beneficiary  
32 is named, then the accumulated contributions shall be paid to the estate of the deceased member.

33 (f) Notwithstanding any other provision of this article, forfeitures under the plan shall not  
34 be applied to increase the benefits any member would otherwise receive under the plan.

**§7-14D-18. Awards and benefits to surviving spouse – when member dies in performance  
of duty, etc.**

1 (a) The surviving spouse of any member who ~~after the effective date of this article while~~  
2 ~~in covered employment, has died or~~ dies by reason of injury, illness, or disease resulting from an  
3 occupational risk or hazard inherent in or peculiar to the service required of members, while the  
4 member was or is engaged in the performance of his or her duties as a deputy sheriff, or the  
5 survivor spouse of a member who dies from any cause while receiving benefits pursuant to §7-  
6 14D-14 of this code, is entitled to receive and shall be paid from the fund benefits as determined

7 in subsection (b) of this section: To the surviving spouse annually, in equal monthly installments  
8 during his or her lifetime an amount equal to the greater of: (i) Two thirds of the annual  
9 compensation received ~~in the preceding twelve-month period~~ by the deceased member during  
10 the last 12 full months of contributory service; or (ii) if the member dies after ~~his or her~~ meeting  
11 early or normal retirement age requirements, the monthly amount which the spouse would have  
12 received had the member retired the day before his or her death, elected a 100 percent joint and  
13 survivor annuity with the spouse as the joint annuitant, and then died.

14 (b) Benefits for a surviving spouse received under this section, §7-14D-20, and §7-14D-  
15 21 of this code are in lieu of receipt of any other benefits under this article for the spouse or any  
16 other person or under the provisions of any other state retirement system based upon the  
17 member's covered employment.

**§7-14D-19. Awards and benefits to surviving spouse – when member dies from nonservice-  
connected causes.**

1 (a) In any case where a member who has been a contributing member for at least 10 years  
2 ~~while in covered employment after the effective date of this article, has died or dies~~ prior to  
3 retirement from any cause other than those specified in §7-14D-18 of this code and not due to  
4 vicious habits, intemperance, or willful misconduct on his or her part, the fund shall pay annually  
5 in equal monthly installments to the surviving spouse during his or her lifetime, a sum equal to the  
6 greater of: (i) One half of the annual compensation received ~~in the preceding 12-month~~  
7 ~~employment period~~ by the deceased member during the last 12 full months of contributory service;  
8 or (ii) if the member dies after ~~his or her~~ meeting early or normal retirement age requirements, the  
9 monthly amount which the spouse would have received had the member retired the day before  
10 his or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint  
11 annuitant, and then died.

12 (b) In any case where a retired member who had been a contributing member for at least  
13 10 years, had not obtained the age of 60, and was receiving benefits pursuant to §7-14D-15 of

14 this code dies and leaves a surviving spouse, the fund shall pay annually in equal monthly  
15 installments to the surviving spouse during his or her lifetime a sum equal to the greater of: (i)  
16 One half of the annual compensation received by the deceased member during the last 12 full  
17 months of contributory service; or (ii) if the member dies after meeting early or normal retirement  
18 age requirements, the monthly amount which the spouse would have received had the member  
19 retired the day before his or her death, elected a 100 percent joint and survivor annuity with the  
20 spouse as the joint annuitant, and then died.

21       ~~(b)~~ (c) Benefits for a surviving spouse received under this section, §7-14D-20, and §7-  
22 14D-21 of this code are in lieu of receipt of any other benefits under this article for the spouse or  
23 any other person or under the provisions of any other state retirement system based upon the  
24 member's covered employment.

**§7-14D-24a. Return to covered employment by retired member.**

1       (a) The annuity of any member who retires under the provisions of this article and who  
2 resumes service in covered employment shall be suspended while the member continues in  
3 covered employment. The monthly annuity payment for the month in which the service resumes  
4 shall be prorated to the date of commencement of service, and the member shall again become  
5 a contributing member during resumption of service. At the conclusion of resumed service in  
6 covered employment the member shall have his or her annuity recalculated to take into account  
7 the entirety of service in covered employment.

8       (b) Notwithstanding the provisions of subsection (a) of this section, the annuity of a  
9 member who retires under the provisions of this article shall not be suspended if the member  
10 resumes covered employment and the following conditions are met:

11       (1) The member has been retired for at least 180 days;

12       (2) The retired member did not retire as a result of a disability pursuant to the provisions  
13 of §7-14D-14 of this code;

14 (3) The retired member is a certified, or certifiable, law-enforcement officer as provided in  
15 §30-29-5 of this code;

16 (4) The sheriff of the county seeking to re-employ the retired member has fewer than five  
17 deputies in his or her employ and has been unable to recruit additional qualified deputy sheriffs  
18 despite the exercise of due diligence;

19 (5) The re-employment of the retired member is for a period not to exceed five years or  
20 until such time as the sheriff may recruit additional deputy sheriffs to provide for five full-time  
21 deputy sheriffs not hired pursuant to this subsection, whichever is sooner; and the sheriff is  
22 required to post the vacancy until it is filled by a non-retirant;

23 (6) The retired member may not again become a contributing member of the Deputy  
24 Sheriff Retirement System while performing services under the provisions of this subsection; and

25 (7) The employer of any deputy sheriff rehired pursuant to this subsection shall remit an  
26 employer contribution pursuant to §7-14D-7 of this code on the deputy sheriff's monthly salary.

27 (c) Any retired member who is seeking re-employment pursuant to the provisions of this  
28 section shall not be subject to the maximum age restriction set forth in §7-14-8 of this code.

29 (d) Unless acted upon by the Legislature, the provisions of subsections (b) and (c) of this  
30 section will sunset on July 1, 2026. On or before October 1, 2025, any employer of a member of  
31 the Deputy Sheriff Retirement System rehired pursuant to subsection (b) of this section must  
32 make a report to the Joint Standing Committee on Pensions and Retirement.

33 (e) Any member who retired under the early retirement provisions of §7-14D-11(b) of this  
34 code, and is subsequently reemployed in covered employment pursuant to subsection (a) of this  
35 section, and who again retires shall have his or her retirement annuity recalculated as if he or she  
36 were retiring at an age calculated by adding his or her original early retirement age to the number  
37 of years and months during which he or she was reemployed and contributing to the plan. In the  
38 event the artificially determined age, as determined in accordance with the preceding sentence,  
39 exceeds 60, the board shall not make any reduction for early retirement.