

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 369**

4 (By Senators Unger and Snyder)

5 _____
6 [Originating in the Committee on Pensions;
7 reported January 31, 2012.]
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10 A BILL 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, to change
13 the retirement benefit options under certain circumstances.

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

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

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

18 **§7-14D-12. Annuity options.**

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

24 ~~(a)~~ (1) *Option A -- Joint and Survivor Annuity.* -- A life
25 annuity payable during the joint lifetime of the member and his or

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

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

23 ~~(c)~~ (3) *Option C -- Ten Years Certain and Life Annuity. --* A
24 life annuity payable during the member's lifetime but in any event
25 for a minimum of ten years. If the member dies before the
26 expiration of ten years, the remaining payments shall be made to a

1 designated beneficiary, if any, or otherwise to the member's
2 estate.

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

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

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

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

1 to be the actuarial equivalent of the benefit the member is
2 receiving just after the death of the member's named beneficiary.
3 If the election is not made until eighteen months after the death
4 of the prior beneficiary, the amount shall be reduced so that it is
5 only ninety percent of the actuarial equivalent of the benefit the
6 member is receiving just after the death of the member's named
7 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, the
11 retirant may elect to change the retirement benefit options offered
12 by those subdivisions to a life annuity in an amount adjusted on a
13 fair basis to be of equal actuarial value of the annuity
14 prospectively in effect relative to the retirant at the time the
15 option is elected: *Provided*, That the retirant furnishes to the
16 board satisfactory proof of entry of a final decree of divorce or
17 annulment: *Provided*, however, That the retirant certifies under
18 penalty of perjury that no qualified domestic relations order,
19 final decree of divorce or other court order that would restrict
20 the election is in effect: *Provided further*, That no cause of
21 action against the board arises or may be maintained on the basis
22 of having permitted the retirant to name a new spouse as annuitant
23 for any of the survivorship retirement benefit options.

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.

(NOTE: The purpose of this bill is to modify the Deputy Sheriff Retirement System to allow a retirant, upon divorce, to change the retirement benefit options under certain circumstances.

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