

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 425

BY SENATORS FERNS, CLINE, AND PLYMALE

[Introduced January 30, 2018; Referred
to the Committee on Pensions]

1 A BILL to amend and reenact §8-22-25a of the Code of West Virginia, 1931, as amended, relating
2 to removing sunset dates upon which members of the policemen's or firemen's pension
3 and relief fund are eligible for and elect to commence participation in a deferred retirement
4 option plan.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND
RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS
FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR
COMBINED WATERWORKS AND SEWERAGE SYSTEM.**

§8-22-25a. Deferred retirement option plans; authorization; requirements; limitations.

1 (a) A deferred retirement option plan (DROP) is a method to encourage retention of a
2 worker beyond normal retirement age by permitting the worker to freeze retirement benefits at a
3 certain time prior to ceasing work, to continue to work for a specified period, and to have
4 retirement benefits which accrue while the employee continues working set aside in an account
5 which the worker will then receive in a lump sum upon finally discontinuing work. The Legislature
6 acknowledges that a DROP may be a useful and economical tool for retaining experienced and
7 trained employees and for planning for turnovers in the workforce. Experience, however, dictates
8 that a DROP may place a heavy financial burden on the employer and the affected retirement
9 system, negating any positive benefit offered by the DROP if the DROP is not carefully planned
10 to be economically favorable to the employer and revenue neutral for the affected retirement
11 system while remaining attractive to the targeted employee.

12 (b) (1) The governing bodies of municipalities participating in policemen's and firemen's
13 pension and relief funds pursuant to §8-22-16 through §8-22-28 of this code, are authorized to
14 voluntarily offer DROPs. A participating municipality may design and establish a DROP to best

15 meet the municipality's needs so long as the DROP complies with federal law, the requirements
16 set forth in this section and approved by the Municipal Pensions Oversight Board.

17 (2) Prior to approval by the Municipal Pensions Oversight Board, a municipality shall
18 submit a proposed DROP to the board for analysis by the qualified actuary retained or employed
19 by the board. The actuary shall examine the plan and, in light of the elements of the DROP and
20 the actuarial projections of the impact of the DROP on the affected pension and relief fund, advise
21 the board of the anticipated impact on the Municipal Pension and Relief Fund. The board shall
22 seek to approve only those DROPs which, in the best judgment of the actuary, are designed to
23 have no negative impact on the member's pension and relief fund. The submitting municipality
24 shall reimburse the board for actuarial costs of analyzing the plan.

25 (c) To be eligible to enter a DROP, the member of the policemen's or firemen's pension
26 and relief fund must be in active employment and an active member of his or her pension and
27 relief fund for at least six months beyond attaining eligibility for regular retirement as provided in
28 §8-22-25 of this code and have received a satisfactory performance evaluation within the prior 12
29 months. The member may defer retirement for a period of not less than one nor more than five
30 years but must complete the period by age 65. The member may elect to commence participation
31 ~~from after July 1, 2011. through June 30, 2016. Members not meeting the eligibility requirement~~
32 ~~by June 30, 2016, are not eligible to participate in the DROP~~

33 (d)(1) During the DROP participation period, the member shall continue with full-time
34 employment in a covered position subject to the municipality's requirements. A member's
35 retirement benefits are calculated as of the DROP participation date and a member may not
36 accumulate additional retirement benefits during the DROP participation period. Upon beginning
37 participation, the member is treated as retired and receiving benefits for purposes of the
38 retirement system and for purposes of distributing premium tax proceeds through the Municipal
39 Pensions Security Fund. During the participation period, the employer shall continue to make
40 regular contributions to the employee's pension and relief fund.

41 (2) Benefit payments are accumulated for the member in the pension and relief fund in an
42 accumulation account during the DROP participation period. At the end of the participation period,
43 the amount in the accumulation account owing to the member, plus interest not to exceed three
44 and one-half percent, shall be paid to the member in a lump sum. Monthly retirement payments
45 shall be paid directly to the member starting in the month following the end of the DROP
46 participation period.

47 (3) A member may voluntarily terminate DROP participation early with 60 days' advance
48 notice. Deferred accumulated benefits will be paid with no interest for the DROP period and
49 benefits payments will commence following the early termination date. Covered employment must
50 terminate before benefit distributions may be made. Should the employer wish to terminate the
51 employment during the participation period, the member may terminate participation with 30 days'
52 notice and the deferred accumulation balance shall be paid with interest according to the DROP
53 design: *Provided*, That if the employee is terminated for cause during the participation period, the
54 member may terminate participation with 30 days' notice and the deferred accumulation balance
55 shall be paid without interest according to the DROP design.

56 (4) A member who is unable to continue working because of disability shall cease
57 participation the first day of the month following notice of disability to the employer and the pension
58 and relief fund. The accumulation account balance shall be paid to the member with no interest.
59 No additional benefits are due the member on account of the disability.

60 (5) In the event of death of a member during DROP participation, the accumulation
61 account of the member through the member's date of death is payable to the member's
62 beneficiary or beneficiaries, with interest according to DROP design.

63 (6) A member entering the DROP is contractually obligated to terminate employment at
64 the end of the DROP participation period. Failure to terminate voluntarily results in termination of
65 employment for cause, except that a member who continues to work with the consent of the
66 employer past the DROP participation period shall have all benefits frozen during the extension

67 period and no additional benefit accumulates. During the period of time the member continues to
68 work beyond the end of the DROP participation period with the consent of the employer, the
69 employer shall continue to make regular contributions to the employee's pension and relief fund.
70 Regular retirement benefits will commence the month following eventual employment termination
71 or death. The member's accumulation account balance is frozen in value following the end of the
72 DROP participation period.

73 (e) Pursuant to §4-1-23 of this code, the oversight board shall annually report to the
74 Legislature's Joint Committee on Pensions and Retirement on DROPs submitted to the board for
75 approval and the status of any DROP that has been approved, including any experienced impact
76 on an affected pension and relief fund.

NOTE: The purpose of this bill is to remove the sunset dates upon which members of the policemen's or firemen's pension and relief fund are eligible for and elect to commence participation in a deferred retirement option plan (DROP).

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