

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **ENROLLED**

## **House Bill 4462**

BY DELEGATES STORCH, PETHTEL, EVANS, ANDERSON,

BATES, GRAVES AND ESPINOSA

(BY REQUEST OF THE MUNICIPAL PENSIONS OVERSIGHT BOARD)

[Passed March 7, 2022; in effect ninety days from passage.]



1 AN ACT to amend and reenact §8-22-25a of the Code of West Virginia, 1931, as amended,  
2 relating to requiring actuarial reports to be prepared and presented to the Legislature's  
3 Joint Committee on Pensions and Retirement regarding active deferred retirement option  
4 plans every five years.

*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 be 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 seek  
22 to approve only those DROPs which, in the best judgment of the actuary, are designed to have  
23 no negative impact on the member's pension and relief fund. The submitting municipality shall  
24 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 after July 1, 2011.

32 (d)(1) During the DROP participation period, the member shall continue with full-time  
33 employment in a covered position subject to the municipality's requirements. A member's  
34 retirement benefits are calculated as of the DROP participation date and a member may not  
35 accumulate additional retirement benefits during the DROP participation period. Upon beginning  
36 participation, the member is treated as retired and receiving benefits for purposes of the  
37 retirement system: *Provided*, That for the purpose of distributing premium tax proceeds required  
38 in §33-3-14d of this code, he or she shall be included in the calculation of the municipality's  
39 average number of policemen or firemen for each month that he or she works at least one hundred

40 hours. During the DROP participation period, the employer shall continue to make regular  
41 contributions to the employee's pension and relief fund.

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

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

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

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

64 (6) A member entering the DROP is contractually obligated to terminate employment at  
65 the end of the DROP participation period. Failure to terminate voluntarily results in termination of

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

74 (e) The oversight board shall annually report to the Legislature's Joint Committee on  
75 Pensions and Retirement, and to the Legislature as required by §4-1-23 and §5-1-20 of this code,  
76 on DROPs submitted to the board for approval and the status of any DROP that has been  
77 approved. Once every five years, the oversight board shall have its contracted actuary provide a  
78 report to the Legislature's Joint Committee on Pensions and Retirement on the status of each  
79 active Deferred Retirement Option Plan (DROP). The reports shall include any experienced  
80 impact on an affected pension and relief fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2022.

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*Governor*