

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3278

FISCAL
NOTE

By Delegates Cooper, Roop, and Sheedy

[Introduced March 10, 2025; referred to the
Committee on Finance]

1 A BILL to amend and reenact §5-10-24 of the Code of West Virginia, 1931, as amended, relating to
 2 annuity options under the West Virginia Public Employees Retirement Act; and providing
 3 that, if a spouse beneficiary predeceases a retirant, the retirant shall receive the annuity in
 4 the same amount as if not nominating a spouse beneficiary.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-24. Annuity options.

1 (a) Prior to the effective date of his or her retirement, but not thereafter except upon the
 2 death of a spouse, a member may elect to receive his or her annuity as a straight life annuity
 3 payable throughout his or her life, or he or she may elect to receive the actuarial equivalent, at the
 4 time, of his or her straight life annuity in a reduced annuity payable throughout his or her life, and
 5 nominate a beneficiary, in accordance with option A or B set forth below:

6 Option A - *Joint and survivor annuity.* — Upon the death of a retirant who elected option A,
 7 his or her reduced annuity shall be continued throughout the life of and paid to the beneficiary,
 8 having an insurable interest in the retirant's life, whom the retirant nominated by written
 9 designation duly executed and filed with the board of trustees prior to the effective date of his or
 10 her retirement; or

11 Option B - *Modified joint and survivor annuity.* — Upon the death of a retirant who elected
 12 option B, one half of his or her reduced annuity shall be continued throughout the life of and paid to
 13 the beneficiary, having an insurable interest in the retirant's life, whom the retirant nominated by
 14 written designation duly executed and filed with the board of trustees prior to the effective date of
 15 his or her retirement.

16 (b) Upon the death of a spouse, a retirant may elect any of the retirement options offered by
 17 the provisions of this section in an amount adjusted on a fair basis to be of equal actuarial value as
 18 the annuity prospectively in effect relative to the retirant at the time the new option is elected. If the
 19 retirant does not nominate another beneficiary, the member retirant shall receive his or her annuity

20 at the actuarial equivalent he or she would have received if an election had not been made under
21 section (a) of this section.

22 (c) Upon divorce, a retirant may elect to change any of the retirement benefit options
23 offered by the provisions of this section to a life annuity in an amount adjusted on a fair basis to be
24 of equal actuarial value of the annuity prospectively in effect relative to the retirant at the time the
25 option is elected: *Provided*, That the retirant furnishes to the board satisfactory proof of entry of a
26 final decree of divorce or annulment: *Provided, however*, That the retirant certifies under penalty of
27 perjury that no qualified domestic relations order, final decree of divorce, or other court order that
28 would restrict the election is in effect: *Provided further*, That no cause of action against the board
29 may then arise or be maintained on the basis of having permitted the retirant to name a new
30 spouse as annuitant for any of the survivorship retirement benefit options.

31 (d) Upon remarriage, a retirant may name the new spouse as an annuitant for any of the
32 retirement benefit options offered by the provisions of this section: *Provided*, That the retirant shall
33 furnish to the board proof of marriage: *Provided, however*, That the retirant certifies under penalty
34 of perjury that no qualified domestic relations order, final decree of divorce or other court order that
35 would restrict the designation is in effect: *Provided further*, That no cause of action against the
36 board may then arise or be maintained on the basis of having permitted the retirant to name a new
37 spouse as annuitant for any of the survivorship retirement benefit options. The value of the new
38 survivorship annuity shall be the actuarial equivalent of the retirant's benefit prospectively in effect
39 at the time the new annuity is elected.

40 (e) In the event a retirant has named a beneficiary pursuant to subsection (a) of this
41 section, such retirant may change such beneficiary designation from the named beneficiary to an
42 irrevocable special needs trust, as that term is defined in §5-10-2 of this code, if the irrevocable
43 special needs trust is for the benefit of the same beneficiary. No further annuity payments shall be
44 payable or paid from and after the later of the death of the retirant or the death of the beneficiary of
45 the irrevocable special needs trust.

NOTE: The purpose of this bill is to provide that, if a spouse beneficiary predeceases a retirant, the retirant shall receive the annuity in the same amount as if not nominating a spouse beneficiary.

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