WEST VIRGINIA CODE: §20-18-19

§20-18-19. Annuity options.

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

(1) *Joint and Survivor Annuity.* — A life annuity payable during the joint lifetime of the retirant and his or her beneficiary who is a natural person with an insurable interest in the retirant's life. Upon the death of the retirant, the benefit shall continue as a life annuity to the survivor in an amount equal to 50 percent, 66 and two-thirds percent, 75 percent, or 100 percent of the amount paid while both were living as selected by the member. If the beneficiary dies first, the monthly amount of benefits may not be reduced, but shall be paid at the amount that was in effect before the death of the beneficiary. If the retiring member is married, the spouse shall sign a waiver of benefit rights if the beneficiary is to be other than the spouse.

(2) *Ten Years Certain and Life Annuity.* — A life annuity payable during the retirant's lifetime but in any event for a minimum of 10 years. If the retirant's dies before the expiration of 10 years, the remaining payments shall be made to a designated beneficiary, if any, or otherwise to the member's estate.

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

(A) *Actuarial equivalence.* — The actuarial present value at the date of retirement of the retirant's annuity if taken in the normal form must equal the actuarial present value of the term life annuity in amount "A" plus the actual present value of the deferred life annuity in amount "B"; and

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

(b) If a retirant who has elected the options set forth in subdivision (1), subsection (a) of this section, whose beneficiary dies prior to the retirant's death, the retirant may name an alternative beneficiary. If an alternative beneficiary is named within 18 months following the death of the prior beneficiary, the benefit shall be adjusted to be the actuarial equivalent of the benefit the retirant is receiving just after the death of the retirant's named beneficiary. If

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the election is not made until 18 months after the death of the prior beneficiary, the amount shall be reduced so that it is only 90 percent of the actuarial equivalent of the benefit the retirant is receiving just after the death of the retirant's named beneficiary.

(c) (1) If a retirant who has elected an option set forth in subdivision (1), subsection (a) of this section, designated his or her spouse as beneficiary, upon divorce or annulment, the retirant may elect to change the retirement benefit options offered by those subdivisions to a life annuity in an amount adjusted on a fair basis to be of equal actuarial value of the annuity prospectively in effect relative to the retirant at the time the option is elected: *Provided*, That the retirant furnishes to the board satisfactory proof of entry of a final decree of divorce or annulment: *Provided, however,* That the retirant certifies under penalty of perjury that no qualified domestic relations order, final decree of divorce or other court order that would restrict the election is in effect: *Provided further*, That no cause of action against the board arises or may be maintained on the basis of having permitted the retirant to change the retirement benefit option pursuant to the provisions of this subdivision.

(2) Upon remarriage, a retirant may name the new spouse as an annuitant for any of the retirement benefit options offered by subdivision (1), subsection (a) of this section: *Provided*, That the retirant shall furnish to the board proof of marriage: *Provided, however*, That the retirant certifies under penalty of perjury that no qualified domestic relations order, final decree of divorce or other court order that would restrict the designation is in effect: *Provided further*, That no cause of action against the board arises or may be maintained on the basis of having permitted the retirant to name a new spouse as annuitant for any of the survivorship retirement benefit options. The value of the new survivorship annuity shall be the actuarial equivalent of the retirant's benefit prospectively in effect at the time the new annuity is elected.

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