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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 2415

(By Mr. Speaker, Mr. Kiss, and Delegates Jenkins,
Hock, Ashley, Vanner, Pettit and Staton)



Passed March 14, 1998

In Effect Ninety Days from Passage

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COMMITTEE SUBSTITUTE

FOR

H. B. 2415

(BY MR. SPEAKER, MR. KISS, AND DELEGATES JENKINS, HECK,
ASHLEY, VARNER, PETTIT AND STATON)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article ten-d, chapter five of the code of West Virginia, one thousand nine hundred thirty-one; to amend chapter seven of said code by adding thereto two new articles, designated article fourteen-d and fourteen-e; and to amend and reenact section seventeen, article three, chapter seventeen-a, all relating to retirement, death and disability benefits for deputy sheriffs; providing that the consolidated retirement board administer the new retirement system; providing definitions for the article; creating the deputy sheriff's retirement system; stating that the article is to be liberally construed; allowing the board to promulgate rules for the administration of the fund; establishing membership qualifications; creating a trust fund for investment of contributions; establishing member and employer contribution amount; providing for transfer of assets; providing credited service through member's use, as an option, of accrued annual or sick leave days; establishing value of assets for transfer; requiring a test case; providing safeguards to the public employees retirement system; establishing for the commencement of benefits; establishing

benefits for normal, early and late retirement; establishing annuity options; providing for refunds to members upon certain conditions; providing for disability retirements; allowing deputies with a prior disability to become member of plan; benefits for surviving spouses; benefits for dependents; establishing death benefits; prohibiting double benefits; authorizing loans to members; authorizing sheriff's to become member of plan; establishing fraudulent practices and criminal penalties therefor; and providing military service credits; providing effective date and benefit beginning dates; providing limitation on county liability; setting forth legislative findings and purposes; establishing statewide uniform fees for certain reports generated by sheriff's offices and dedicating those fees; requiring sheriffs to issue motor vehicle registration renewals; and providing that one-half of the fee charged by sheriffs for issuing motor vehicle registration renewals be dedicated to the deputy sheriff retirement fund.

Be it enacted by the Legislature of West Virginia:

That section one, article ten-d, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that chapter seven of said code be amended by adding thereto two new articles, designated article fourteen-d and fourteen-e; and that section seventeen, article three, chapter seventeen-a be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.

**§5-10D-1. Consolidated public retirement board created;
transition; members; vacancies.**

- 1 (a) There is hereby continued a consolidated public
- 2 retirement board to administer all public retirement plans
- 3 in this state. It shall administer the public employees
- 4 retirement system established in article ten of this chapter;

5 the teachers retirement system established in article seven-
6 a, chapter eighteen of this code; the teachers' defined
7 contribution retirement system created by article seven-b,
8 chapter eighteen of this code; the death, disability and
9 retirement fund of the department of public safety created
10 by article two, chapter fifteen of this code; the death,
11 disability and retirement fund for deputy sheriffs created
12 by article fourteen-d, chapter seven of this code; and the
13 judges' retirement system created under article nine,
14 chapter fifty-one of this code.

15 (b) The consolidated public retirement board shall
16 begin administration of the death, disability and retirement
17 fund for deputy sheriffs established in article fourteen-d,
18 chapter seven of this code on the first day of July, one
19 thousand nine hundred ninety-eight.

20 (c) The membership of the consolidated public
21 retirement board consists of:

22 (1) The governor or his or her designee;

23 (2) The state treasurer or his or her designee;

24 (3) The state auditor or his or her designee;

25 (4) The secretary of the department of administration
26 or his or her designee;

27 (5) Four residents of the state, who are not members,
28 retirants or beneficiaries of any of the public retirement
29 systems, to be appointed by the governor, with the advice
30 and consent of the Senate; and

31 (6) A member, annuitant or retirant of the public
32 employees retirement system who is or was a state
33 employee; a member, annuitant or retirant of the public
34 employees retirement system who is not or was not a state
35 employee; a member, annuitant or retirant of the teachers
36 retirement system; a member, annuitant or retirant of the
37 department of public safety death, disability and
38 retirement fund; a member, annuitant or retirant of the
39 deputy sheriff's death, disability and retirement fund; and
40 a member, annuitant or retirant of the teachers' defined

41 contribution retirement system, all to be appointed by the
42 governor, with the advice and consent of the Senate.

43 (d) The appointed members of the board shall serve
44 five-year terms. The governor shall appoint the member
45 representing the deputy sheriff's death, disability and
46 retirement fund by the first day of July, one thousand nine
47 hundred ninety-eight to a five year term. A member
48 appointed pursuant to subdivision (5), subsection (c) of
49 this section ceases to be a member of the board if he or
50 she ceases to be a member of the represented system. If a
51 vacancy occurs in the appointed membership, the
52 governor, within sixty days, shall fill the vacancy by
53 appointment for the unexpired term. No more than five
54 appointees shall be of the same political party.

55 (e) The consolidated public retirement board has all
56 the powers, duties, responsibilities and liabilities of the
57 public employees retirement system established pursuant
58 to article ten, of this chapter; the teachers retirement
59 system established pursuant to article seven-a, chapter
60 eighteen of this code; the teachers' defined contribution
61 system established pursuant to article seven-b, chapter
62 eighteen of this code; the death, disability and retirement
63 fund of the department of public safety created pursuant
64 to article two, chapter fifteen of this code; the death,
65 disability and retirement fund for deputy sheriffs created
66 pursuant to article fourteen-d, chapter seven of this code;
67 and the judges' retirement system created pursuant to
68 article nine, chapter fifty-one of this code and their
69 appropriate governing boards. The consolidated public
70 retirement board may propose for promulgation all rules
71 necessary to effectuate its powers, duties and
72 responsibilities pursuant to article three, chapter twenty-
73 nine-a of this code: *Provided*, That the board may adopt
74 any or all of the rules, previously promulgated, of a
75 retirement system which it administers.

76 (f) Effective on the first day of July, one thousand
77 nine hundred ninety-six, the consolidated public
78 retirement board shall, within two business days of receipt,
79 transfer all funds received by the consolidated public
80 retirement board for the benefit of the retirement systems

81 within the consolidated pension plan as defined in section
 82 three-c, article six-b, chapter forty-four of this code,
 83 including, but not limited to, all employer and employee
 84 contributions, to the West Virginia investment
 85 management board: *Provided*, That the employer and
 86 employee contributions of the teachers' defined
 87 contribution system, established in section three, article
 88 seven-b, chapter eighteen of this code, and voluntary
 89 deferred compensation funds invested by the West
 90 Virginia consolidated public retirement board pursuant to
 91 section five, article ten-b of this chapter, may not be
 92 transferred to the West Virginia investment management
 93 board.

94 (g) The consolidated public retirement board shall be
 95 a trustee for all public retirement plans, except with regard
 96 to the investment of funds: *Provided*, That the
 97 consolidated public retirement board shall be a trustee
 98 with regard to the investments of the teachers' defined
 99 contribution system, and voluntary deferred compensation
 100 funds invested pursuant to section five, article ten-b of this
 101 chapter.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT ACT.

§7-14D-1. Short title.

1 This article is known and may be cited as the "West
 2 Virginia Deputy Sheriff Retirement System Act".

§7-14D-2. Definitions.

1 As used in this article, unless a federal law or
 2 regulation or the context clearly requires a different
 3 meaning:

4 (a) "Accrued benefit" means on behalf of any
 5 member two and one-quarter percent of the member's
 6 final average salary multiplied by the member's years of
 7 credited service. A member's accrued benefit may not
 8 exceed the limits of section 415 of the Internal Revenue
 9 Code.

10 (b) "Accumulated contributions" means the sum of
11 all amounts deducted from the compensation of a
12 member, or paid on his or her behalf pursuant to article
13 ten-c, chapter five of this code, either pursuant to section
14 seven of this article or section twenty-nine, article ten,
15 chapter five, of this code as a result of covered
16 employment together with regular interest on the deducted
17 amounts.

18 (c) "Active military duty" means full-time active duty
19 with any branch of the armed forces of the United States,
20 including service with the national guard or reserve
21 military forces when the member has been called to active
22 full-time duty and has received no compensation during
23 the period of that duty from any board on other than the
24 armed forces.

25 (d) "Actuarial equivalent" means a benefit of equal
26 value computed upon the basis of the mortality table and
27 interest rates as the consolidated public retirement board
28 may adopt from time to time.

29 (e) "Annual compensation" means the wages paid to
30 the member during covered employment within the
31 meaning of section 3401(a) of the Internal Revenue Code
32 but determined without regard to any rules that limit the
33 remuneration included in wages based upon the nature or
34 location of employment or services performed during the
35 plan year plus amounts excluded under section 414(h)(2)
36 of the Internal Revenue Code and less reimbursements or
37 other expense allowances, cash or noncash fringe benefits
38 or both, deferred compensation and welfare benefits.
39 Annual compensation for determining benefits during any
40 determination period may not exceed one hundred fifty
41 thousand dollars as adjusted for cost of living in
42 accordance with section 401(a)(17)(B) of the Internal
43 Revenue Code.

44 (f) "Annual leave service" means accrued annual
45 leave.

46 (g) "Annuity starting date" means the first day of the
47 first period for which an amount is received as an annuity
48 by reason of retirement.

49 (h) "Base salary" means a member's cash
50 compensation exclusive of overtime from covered
51 employment during the last twelve months of
52 employment. Until a member has worked twelve months,
53 annualized base salary is used as base salary.

54 (i) "Board" means the consolidated public retirement
55 board created pursuant to article ten-d, chapter five of this
56 code.

57 (j) "County commission" has the meaning ascribed
58 to it in section one, article one, chapter seven of this code.

59 (k) "Covered employment" means either: (1)
60 Employment as a deputy sheriff and the active
61 performance of the duties required of a deputy sheriff; or
62 (2) the period of time which active duties are not
63 performed but disability benefits are received under
64 section thirteen or fourteen of this article.

65 (l) "Credited service" means the sum of a member's
66 years of service, military service, disability service and
67 annual leave service.

68 (m) "Deputy sheriff" means an individual employed
69 as a county law-enforcement deputy sheriff in this state
70 and as defined by section two, article fourteen, chapter
71 seven of this code.

72 (n) "Dependent child" means:

73 (1) An unmarried person under age eighteen who is
74 either:

75 (A) A natural child of the member;

76 (B) A legally adopted child of the member;

77 (C) A child who at the time of the member's death was
78 living with the member while the member was an adopting
79 parent during any period of probation; or

80 (D) A stepchild of the member residing in the
81 member's household at the time of the member's death.

82 (2) Any unmarried child under age twenty-three: (A)
83 Who is enrolled as a full-time student in an accredited

84 college or university; (B) who was claimed as a dependent
85 by the member for federal income tax purposes at the
86 time of member's death; and (C) whose relationship with
87 the member is described in subparagraph (A), (B) or (C),
88 paragraph (1) of this subdivision.

89 (o) "Dependent parent" means the father or mother
90 of the member who was claimed as a dependent by the
91 member for federal income tax purposes at the time of the
92 member's death.

93 (p) "Disability service" means service received by a
94 member, expressed in whole years, fractions thereof or
95 both, equal to one half of the whole years, fractions
96 thereof, or both, during which time a member receives
97 disability benefits under section thirteen or fourteen of
98 this article.

99 (q) "Early retirement age" means age forty or over
100 and completion of twenty years of service.

101 (r) "Effective date" means the first day of July, one
102 thousand nine hundred ninety-eight.

103 (s) "Final average salary" means the average of the
104 highest annual compensation received for covered
105 employment by the member during any five consecutive
106 plan years within the member's last ten years of service.
107 If the member did not have annual compensation for the
108 five full plan years preceding the member's attainment of
109 normal retirement age and during that period the member
110 received disability benefits under section thirteen or
111 fourteen of this article then "final average salary" means
112 the average of the monthly salary determined paid to the
113 member during that period as determined under section
114 seventeen of this article multiplied by twelve.

115 (t) "Fund" means the West Virginia deputy sheriff
116 retirement fund created pursuant to section six of this
117 article.

118 (u) "Hour of service" means:

119 (1) Each hour for which a member is paid or entitled
120 to payment for covered employment during which time

121 active duties are performed. These hours shall be credited
122 to the member for the plan year in which the duties are
123 performed; and

124 (2) Each hour for which a member is paid or entitled
125 to payment for covered employment during a plan year
126 but where no duties are performed due to vacation,
127 holiday, illness, incapacity including disability, layoff, jury
128 duty, military duty, leave of absence, or any combination
129 thereof, and without regard to whether the employment
130 relationship has terminated. Hours under this paragraph
131 shall be calculated and credited pursuant to West Virginia
132 department of labor regulations. A member will not be
133 credited with any hours of service for any period of time
134 he or she is receiving benefits under section fourteen or
135 fifteen of this article; and

136 (3) Each hour for which back pay is either awarded or
137 agreed to be paid by the employing county commission,
138 irrespective of mitigation of damages. The same hours of
139 service shall not be credited both under paragraph (1) or
140 (2) of this subdivision, and under this paragraph. Hours
141 under this paragraph shall be credited to the member for
142 the plan year or years to which the award or agreement
143 pertains, rather than the plan year in which the award,
144 agreement or payment is made.

145 (v) "Member" means a person first hired as a deputy
146 sheriff after the effective date of this article, as defined in
147 subsection (r) of this section, or a deputy sheriff first hired
148 prior to the effective date and who elects to become a
149 member pursuant to section five or section seventeen of
150 this article. A member shall remain a member until the
151 benefits to which he or she is entitled under this article are
152 paid or forfeited.

153 (w) "Monthly salary" means the portion of a
154 member's annual compensation which is paid to him or
155 her per month.

156 (x) "Normal form" means a monthly annuity which
157 is one twelfth of the amount of the member's accrued
158 benefit which is payable for the member's life. If the
159 member dies before the sum of the payments he or she

160 receives equals his or her accumulated contributions on
161 the annuity starting date, the named beneficiary shall
162 receive in one lump sum the difference between the
163 accumulated contributions at the annuity starting date and
164 the total of the retirement income payments made to the
165 member.

166 (y) "Normal retirement age" means the first to occur
167 of the following:

168 (1) Attainment of age fifty years and the completion
169 of twenty or more years of service;

170 (2) While still in covered employment, attainment of at
171 least age fifty years, and when the sum of current age plus
172 years of service equals or exceeds seventy years;

173 (3) While still in covered employment, attainment of at
174 least age sixty years, and completion of five years of
175 service; or

176 (4) Attainment of age sixty-two years and completion
177 of five or more years of service.

178 (z) "Partially disabled" means a member's inability
179 to engage in the duties of deputy sheriff by reason of any
180 medically determinable physical or mental impairment
181 that can be expected to result in death or that has lasted or
182 can be expected to last for a continuous period of not less
183 than twelve months. A member may be determined
184 partially disabled for the purposes of this article and
185 maintain the ability to engage in other gainful
186 employment which exists within the state but which ability
187 would not enable him or her to earn an amount at least
188 equal to two thirds of the annual compensation earned by
189 all active members of this plan during the plan year
190 ending as of the most recent thirtieth day of June, as of
191 which plan data has been assembled and used for the
192 actuarial valuation of the plan.

193 (aa) "Public employees retirement system" means the
194 West Virginia public employee's retirement system
195 created by article ten, chapter five of this code.

196 (bb) "Plan" means the West Virginia deputy sheriff
197 death, disability and retirement plan established by this
198 article.

199 (cc) "Plan year" means the twelve month period
200 commencing on the first day of July and ending the
201 following thirtieth day of June of any designated year.

202 (dd) "Regular interest" means the rate or rates of
203 interest per annum, compounded annually, as the board
204 shall from time to time adopt.

205 (ee) "Retirement income payments" means the
206 annual retirement income payments payable under the
207 plan.

208 (ff) "Spouse" means the person to whom the member
209 is legally married on the annuity starting date.

210 (gg) "Surviving spouse" means the person to whom
211 the member was legally married at the time of the
212 member's death and who survived the member.

213 (hh) "Totally disabled" means a member's inability
214 to engage in substantial gainful activity by reason of any
215 medically determined physical or mental impairment that
216 can be expected to result in death or that has lasted or can
217 be expected to last for a continuous period of not less than
218 twelve months.

219 For purposes of this subdivision:

220 (1) A member is totally disabled only if his or her
221 physical or mental impairment or impairments is so severe
222 that he or she is not only unable to perform his or her
223 previous work as a deputy sheriff but also cannot,
224 considering his or her age, education and work
225 experience, engage in any other kind of substantial
226 gainful employment which exists in the state regardless of
227 whether: (A) The work exists in the immediate area in
228 which the member lives; (B) a specific job vacancy exists;
229 or (C) the member would be hired if he or she applied for
230 work.

231 (2) "Physical or mental impairment" is an
232 impairment that results from an anatomical, physiological,

233 or psychological abnormality that is demonstrated by
234 medically accepted clinical and laboratory diagnostic
235 techniques.

236 A member's receipt of social security disability
237 benefits creates a rebuttable presumption that the member
238 is totally disabled for purposes of this plan. Substantial
239 gainful employment rebuts the presumption of total
240 disability.

241 (ii) "Year of service". A member shall, except in his
242 or her first and last years of covered employment, be
243 credited with year of service credit based upon the hours
244 of service performed as covered employment and credited
245 to the member during the plan year based upon the
246 following schedule:

247	Hours of Service	Year of Service Credited
248	Less than 5000
249	500 to 999	1/3
250	1,000 to 1,499	2/3
251	1,500 or more	1

252 During a member's first and last years of covered
253 employment, the member shall be credited with one
254 twelfth of a year of service for each month during the plan
255 year in which the member is credited with an hour of
256 service. A member is not entitled to credit for years of
257 service for any time period during which he or she
258 received disability payments under section fourteen or
259 fifteen of this article. Except as specifically excluded,
260 years of service include covered employment prior to the
261 effective date.

262 Years of service which are credited to a member prior
263 to his or her receipt of accumulated contributions upon
264 termination of employment pursuant to section thirteen of
265 this article or section thirty, article ten, chapter five of this
266 code, shall be disregarded for all purposes under this plan
267 unless the member repays the accumulated contributions
268 with interest pursuant to section twelve of this article or
269 had prior to the effective date made the repayment

270 pursuant to section eighteen, article ten, chapter five of this
271 code.

§7-14D-2a. Meaning of terms.

1 Any term used in this article shall have the same
2 meaning as when used in a comparable context in the laws
3 of the United States, unless a different meaning is clearly
4 required. Any reference in this article to the Internal
5 Revenue Code includes all amendments made to the laws
6 of the United States after the thirty-first day of December,
7 one thousand nine hundred ninety-five, but prior to the
8 first day of January, one thousand nine hundred ninety-
9 eight, but no amendment to the laws of the United States
10 made on or after the first day of January, one thousand
11 nine hundred ninety-eight, shall be given any effect.

**§7-14D-3. Creation and administration of West Virginia
deputy sheriff retirement system.**

1 There is created the West Virginia deputy sheriff
2 retirement system. The purpose of this system is to
3 provide for the orderly retirement of deputy sheriffs who
4 become superannuated because of age or permanent
5 disability and to provide certain survivor death benefits.
6 The retirement system constitutes a body corporate. All
7 business of the system shall be transacted in the name of
8 the West Virginia deputy sheriff retirement system.

**§7-14D-4. Article to be liberally construed; supplements
federal social security.**

1 (a) The provisions of this article shall be liberally
2 construed so as to provide a general retirement system for
3 deputy sheriffs eligible to retire under the provisions of
4 this plan. Nothing in this article may be construed to
5 permit a county to substitute this plan for federal social
6 security now in force in West Virginia.

7 (b) The board shall administer the plan in accordance
8 with its terms and may construe the terms and determine
9 all questions arising in connection with the administration,
10 interpretation and application of the plan. The board may
11 sue and be sued, contract and be contracted with and
12 conduct all the business of the system in the name of the

13 plan. The board may employ those persons it considers
14 necessary or desirable to administer the plan. The board
15 shall administer the plan for the exclusive benefit of the
16 members and their beneficiaries subject to the specific
17 provisions of the plan. This plan and the moneys held in
18 trust under the plan constitute a qualified trust under
19 section 401 of the Internal Revenue Code and shall be
20 administered and construed as a qualified trust.

§7-14D-5. Members.

1 (a) Any deputy sheriff first employed by a county in
2 covered employment after the effective date of this article
3 shall be a member of this retirement system and plan and
4 may not qualify for membership in any other retirement
5 system administered by the board, so long as he or she
6 remains employed in covered employment.

7 (b) Any deputy sheriff employed in covered
8 employment on the effective date of this article shall
9 within six months of that effective date notify in writing
10 both the county commission in the county in which he or
11 she is employed and the board of his or her desire to
12 become a member of the plan. Any deputy sheriff who
13 elects to become a member of the plan ceases to be a
14 member or have any credit for employment in any other
15 retirement system administered by the board and shall
16 continue to be ineligible for membership in any other
17 retirement system administered by the board so long as
18 the deputy sheriff remains employed in covered
19 employment. Any deputy sheriff who does not
20 affirmatively elect to become a member of the plan
21 continues to be eligible for any other retirement system as
22 is from time to time offered to other county employees
23 but is ineligible for this plan regardless of any subsequent
24 termination of employment and rehire.

25 (c) Any deputy sheriff who was employed as a deputy
26 sheriff prior to the effective date, but was not employed on
27 the effective date of this article, shall become a member
28 upon rehire as a deputy sheriff. For purposes of this
29 section, the member's years of service and credited service
30 prior to the effective date shall not be counted for any
31 purposes under this plan unless: (1) The deputy sheriff

32 has not received the return of his or her accumulated
 33 contributions in the public employees retirement fund
 34 system pursuant to section thirty, article ten, chapter five
 35 of this code; or (2) the accumulated contributions
 36 returned to the member from the public employees
 37 retirement system have been repaid pursuant to section
 38 twelve of this article. If the conditions of subdivision (1)
 39 or (2) of this subsection are met, all years of the deputy
 40 sheriff's covered employment shall be counted as years of
 41 service for the purposes. In connection with each deputy
 42 sheriff receiving credit for prior employment provided in
 43 this subsection, a transfer from public employees
 44 retirement system to this plan shall be made pursuant to
 45 the procedures described in section eight of this article.

46 (d) Once made, the election made under this section is
 47 irrevocable. All deputy sheriffs first employed after the
 48 effective date and deputy sheriffs electing to become
 49 members as described in this section shall be members as a
 50 condition of employment and shall make the
 51 contributions required by section seven of this article.

52 **§7-14D-6. Creation of fund; investments.**

53 (a) There is created the "West Virginia deputy sheriff
 54 retirement fund" for the benefit of the members of the
 55 retirement system created pursuant to this article and the
 56 dependents of any deceased or retired member of the
 57 system.

58 (b) All moneys paid into and accumulated in the fund,
 59 except such amounts as are designated by the board for
 60 payment of benefits as provided in this article, shall be
 61 held in trust and invested in the consolidated pensions
 62 fund as administered by the state investment management
 63 board as provided by law.

§7-14D-7. Members' contributions; employer contributions.

1 There shall be deducted from the monthly salary of
 2 each member and paid into the fund an amount equal to
 3 eight and one-half percent of his or her monthly salary.
 4 An additional nine and one-half percent of the monthly
 5 salary of each member shall be paid to the fund by the

6 county commission of the county in which the member is
7 employed in covered employment. If the board finds that
8 the benefits provided by this article can be actually funded
9 with a lesser contribution, then the board shall reduce the
10 required member and employer contributions
11 proportionally.

§7-14D-8. Transfer from public employees retirement system.

1 (a) The consolidated retirement board shall within
2 ninety days of the effective date of the transfer of a
3 deputy from the public employees retirement system to
4 the plan shall, transfer assets from the public employees
5 retirement system trust fund into the West Virginia deputy
6 sheriff trust fund. The amount to be transferred from the
7 public employees retirement system includes all
8 contributions made by each transferring deputy plus the
9 employers matching contribution for the retiring deputy
10 and an amount representing the normal amount of interest
11 the transferring deputy earned on all his or her
12 contributions and the contributions his or her employer
13 made on behalf of the transferring deputy.

14 (b) The amount of assets to be transferred for each
15 transferring deputy shall be computed as of the first day
16 of July, one thousand nine hundred ninety-eight, using the
17 actuarial valuation assumptions in effect for the first day
18 of July, one thousand nine hundred ninety-eight, actuarial
19 valuation of public employees retirement system, and
20 updated with seven and one-half percent annual interest to
21 the date of the actual asset transfer. The market value of
22 the assets of the transferring deputy in the public
23 employees retirement system shall be determined as of the
24 end of the month preceding the actual transfer. To
25 determine the computation of the asset share to be
26 transferred the board shall:

27 (1) Compute the market value of the public employees
28 retirement system assets;

29 (2) Compute the accrued liability for all public
30 employees retirement system retirees, beneficiaries,
31 disabled retirees and terminated inactive members;

32 (3) Reduce the market value of public employees
33 retirement system assets by the accrued liability
34 determined in subdivision (2) of this subsection;

35 (4) Compute the entry age method accrued liability
36 for all active public employees retirement system
37 members;

38 (5) Compute the share of accrued liability as
39 determined pursuant to subdivision (4) of this subsection,
40 that is attributable to those deputy sheriffs in public
41 employees retirement system who have elected to transfer
42 to the plan;

43 (6) Compute the percentage of active's accrued
44 liability computed to the deputy sheriffs by dividing
45 subdivision (5) by subdivision (4) of this section;

46 (7) Determine the asset share to be transferred from
47 public employees retirement system to the plan by
48 multiplying subdivision (3) times subdivision(6) of this
49 section.

50 (c) Once a deputy sheriff has elected to transfer from
51 the public employees retirement system, transfer by the
52 public employees retirement system of that deputy's
53 contributions, including all amounts contributed by the
54 deputy's employer for that deputy with interest upon both
55 the deputy's and the employer's contributions shall
56 operate as a complete bar to any further liability to the
57 transferring from the public employees retirement system,
58 and constitutes an agreement whereby the transferring
59 deputy forever indemnifies and holds harmless the public
60 employees retirement system from providing him or her
61 any form of retirement benefit whatsoever until such time
62 as that deputy obtains other employment which would
63 make him or her eligible to re-enter the public employees
64 retirement system with no credit whatsoever for the
65 amounts transferred to the deputy sheriffs retirement
66 system.

67 (d) The board shall cause a judicial determination to
68 be made regarding the transfer of assets from the public
69 employees retirement system to the deputy sheriffs

70 retirement system by causing a suit to be filed in the
71 supreme court of this state seeking a writ of mandamus on
72 or before the thirty-first day of July, one thousand nine
73 hundred ninety-eight.

§7-14D-8a. Notice requirements; test case.

1 (a) Each county shall prepare a written notice to be
2 delivered to each deputy sheriff employed prior to the
3 first day of July, one thousand nine hundred ninety-eight.
4 This notice shall clearly and accurately explain the
5 benefits, financial implications and consequences to a
6 deputy sheriff of electing to participate in the retirement
7 plan created in this article, including the consequences and
8 financial implications in regard to the benefits under the
9 public employees insurance plan as set forth in article
10 sixteen, chapter five of this code for those deputy sheriffs
11 employed by a county which participates in that insurance
12 plan. This notice shall be distributed to each deputy
13 sheriff and the county shall obtain a signed receipt from
14 each deputy sheriff acknowledging that the deputy sheriff
15 was provided a copy of the notice required in this
16 subsection. If a deputy sheriff makes the election
17 provided for in section eight of this article, he or she shall
18 be considered to have made a voluntary, informed
19 decision in regard to the election to participate in the
20 retirement system created in this article.

21 (b) The consolidated retirement board shall cause to
22 be included in the judicial determination required in
23 section eight of this article the issue regarding the possible
24 loss of any rights in regard to benefits accorded the
25 electing deputy under the West Virginia public employees
26 insurance act, article sixteen, chapter five of this code, and
27 whether a deputy sheriff, by electing to participate in the
28 retirement plan created in this article, is being unlawfully
29 discriminated against, or is being unlawfully deprived of a
30 right or benefit to which he or she would otherwise be
31 entitled.

32 (c) Nothing in this section may be construed to alter,
33 affect or change any of the rights and benefits of any
34 deputy sheriff who has insurance coverage under article
35 sixteen, chapter five of this code as a result of being a

36 spouse or dependant of a participant who is the primary
37 insured under article sixteen, chapter five of this code.

38 (d) Nothing contained in this section may be
39 construed to affect or pertain to any life insurance
40 coverage under article sixteen, chapter five of this code.

§7-14D-9. Retirement; commencement of benefits.

1 A member may retire and commence to receive
2 retirement income payments upon attaining early or
3 normal retirement age by filing with the board his or her
4 voluntary petition in writing for retirement: *Provided*, That
5 retirement income payments shall commence no later than
6 the first day of April following the member's seventy and
7 one-half year birthday or the cessation of covered
8 employment, whichever later occurs. Upon receipt of the
9 petition, The board shall promptly provide the member
10 with an explanation of his or her optional forms of
11 retirement benefits and upon receipt of properly executed
12 forms from the member, The board shall process
13 member's request for and commence payments as soon as
14 administratively feasible.

**§7-14D-10. Retirement credited service through member's
use, as option, of accrued annual or sick leave
days.**

1 Any member accruing annual leave or sick leave days
2 may, after the effective date of this section, elect to use the
3 days at the time of retirement to acquire additional
4 credited service in this retirement system: *Provided*, That
5 the accrued annual or sick leave may not be used to
6 purchase health insurance under the public employees
7 insurance agency until the member reaches the age of
8 fifty-five. The days shall be applied on the basis of two
9 workdays credit granted for each one day of accrued
10 annual or sick leave days, with each month of retirement
11 service credit to equal twenty workdays and with any
12 remainder of ten workdays or more to constitute a full
13 month of additional credit and any remainder of less than
14 ten workdays to be dropped and not used, notwithstanding
15 any provisions of the code to the contrary. The credited
16 service shall be allowed and not considered to controvert

17 the requirement of no more than twelve months credited
18 service in any year's period.

§7-14D-11. Retirement benefits.

1 (a) *Normal retirement.* — A member who ceases
2 covered employment, has attained normal retirement age,
3 and whose annuity starting date is within forty-five days of
4 the later of the two, shall receive retirement income
5 payments equal to his or her accrued benefit in the normal
6 form or retirement income payments in an optional form
7 as provided under section twelve of this article which is the
8 actuarial equivalent of his or her accrued benefit in the
9 normal form.

10 (b) *Early retirement.* — A member who ceases covered
11 employment and has attained early retirement age while in
12 covered employment may elect to receive retirement
13 income payments commencing at age fifty or older which
14 is the actuarial equivalent of the member's accrued benefit
15 which would have been payable at the member's normal
16 retirement age based upon his or her final average salary
17 and years of credited service determined at the cessation
18 of his or her covered employment. Payments will be in
19 the normal form or in an optional form as allowed in
20 section twelve of this article which is the actuarial
21 equivalent of the normal form as reduced for early
22 commencement of benefits.

23 (c) *Late retirement.* — A member whose annuity
24 starting date is more than forty-five days after the later of
25 his or her attainment of normal retirement age or the
26 cessation of his or her covered employment shall receive
27 retirement income payments equal to the accrued benefit
28 in the normal form which is the actuarial equivalent of the
29 benefit to which he or she would be entitled had the
30 retirement income payments commenced within forty-five
31 days of the later of his or her attainment of normal
32 retirement age or cessation of covered employment.

33 (d) Retirement benefits shall be paid monthly in an
34 amount equal to one twelfth of the retirement income
35 payments elected and at those times established by the
36 board. Notwithstanding any other provision of the plan, a

37 member who is married on the annuity starting date will
 38 receive his or her retirement income payments in the form
 39 of a sixty-six and two-thirds percent joint and survivor
 40 annuity with his or her spouse unless prior to the annuity
 41 starting date the spouse waives the form of benefit.

§7-14D-12. Annuity options.

1 Prior to the effective date of retirement, but not
 2 thereafter, a member may elect to receive retirement
 3 income payments in the normal form, or the actuarial
 4 equivalent of the normal form from the following options:

5 (a) Option A - Joint and Survivor Annuity. A life
 6 annuity payable during the joint lifetime of the member
 7 and his or her beneficiary who is a natural person with an
 8 insurable interest in the member's life. Upon the death of
 9 either the member or his or her beneficiary, the benefit
 10 shall continue as a life annuity to the survivor in an
 11 amount equal to fifty percent, sixty-six and two-thirds
 12 percent, seventy-five percent or one hundred percent of
 13 the amount paid while both were living as selected by the
 14 member. If the retiring member is married, the spouse
 15 shall sign a waiver of benefit rights if the beneficiary is to
 16 be other than the spouse.

17 (b) Option B - Contingent Joint and Survivor Annuity.
 18 A life annuity payable during the joint lifetime of the
 19 member and his or her beneficiary who must be a natural
 20 person with an insurable interest in the member's life.
 21 Upon the death of the member, the benefit shall continue
 22 as a life annuity to the beneficiary in an amount equal to
 23 fifty percent, sixty-six and two-thirds percent, seventy-five
 24 percent or one hundred percent of the amount paid while
 25 both were living as selected by the member. If the
 26 beneficiary dies first, the monthly amount of benefits shall
 27 be reduced. If the retiring member is married, the spouse
 28 shall sign a waiver of benefit rights if the beneficiary is to
 29 be other than the spouse.

30 (c) Option C - Ten Years Certain and Life Annuity. A
 31 life annuity payable during the member's lifetime but in
 32 any event for a minimum of ten years. If the member dies
 33 before the expiration of ten years, the remaining payments

34 shall be made to a designated beneficiary, if any, or
35 otherwise to the member's estate.

36 (d) Option D - Level Income Annuity. A life annuity
37 payable monthly in an increased amount "A" from the
38 time of retirement until the member is social security
39 retirement age, and then a lesser amount "B" payable for
40 the member's lifetime thereafter, with these amounts
41 computed actuarially to satisfy the following two
42 conditions:

43 (1) Actuarial equivalence. The actuarial present value
44 at the date of retirement of the member's annuity if taken
45 in the normal form must equal the actuarial present value
46 of the term life annuity in amount "A" plus the actual
47 present value of the deferred life annuity in amount "B".

48 (2) Level income. The amount "A" equals the
49 amount "B" plus the amount of the member's estimated
50 monthly social security primary insurance amount that
51 would commence at the date amount "B" becomes
52 payable. For this calculation, the primary insurance
53 amount is estimated when the member applies for
54 retirement, using social security law then in effect, using
55 assumptions established by the board.

56 (e) Option E - Level Income Joint and Survivor
57 Annuity. An annuity structured under the same
58 methodology as in subdivision (d) of this section, with the
59 term annuity amount "A" payable until the member's
60 social security retirement age and the amount "B"
61 payable as a fifty percent, sixty-six and two-thirds percent,
62 seventy-five percent or one hundred percent joint and
63 survivor annuity upon the member's attaining social
64 security retirement age with the members selecting the
65 applicable percentage rate, if the retiring member is
66 married, the spouse shall sign a waiver of benefit rights if
67 the beneficiary is to be other than the spouse.

68 (f) Option F - Increasing Annuity. A life annuity
69 payable in any of the forms described in this section, and
70 subject to the corresponding conditions, with the amount
71 of monthly payment increasing at one and one-half
72 percent, two percent or two and one-half percent

73 compounded annually throughout the life of the annuity.
74 Annuities taken in this form shall be adjusted the first day
75 of April of each year following the member's annuity
76 starting date with a prorated increase given on the first day
77 of April to retirees who have not yet been retired a full
78 year on that date.

79 In the case of a member who has elected the options
80 set forth in subdivisions (b) and (e) of this section,
81 respectively, and whose beneficiary dies prior to the
82 member's death, the member may name an alternative
83 beneficiary. If an alternative beneficiary is named within
84 eighteen months following the death of the prior
85 beneficiary, the benefit shall be adjusted to be the actuarial
86 equivalent of the member's normal form of benefit. If
87 the election is not made until eighteen months after the
88 death of the prior beneficiary, the amount shall be
89 reduced so that it is only ninety percent of the actuarial
90 equivalent of the member's normal form of benefit.

**§7-14D-13. Refunds to certain members upon discharge or
resignation; deferred retirement.**

1 (a) Any member who terminates covered employment
2 and is not eligible to receive disability benefits under this
3 article is, by written request filed with the board, entitled to
4 receive from the fund the member's accumulated
5 contributions. Except as provided in subsection (b) of this
6 section, upon withdrawal the member shall forfeit his or
7 her accrued benefit and cease to be a member.

8 (b) Any member who withdraws accumulated
9 contributions from either this plan or the public
10 employees retirement system and thereafter becomes
11 reemployed in covered employment shall not receive any
12 credited service for the prior employment unless following
13 his or her return to covered employment, the member
14 redeposits in the fund the amount of the accumulated
15 contributions, together with interest on the accumulate
16 contributions at the rate determined by the board from the
17 date of withdrawal to the date of redeposit. Upon
18 repayment he or she shall receive the same credit on
19 account of his or her former service as if no refund had
20 been made. The repayment shall be made in a lump sum

21 within sixty months of the deputy sheriff's reemployment
22 sum or if later, within sixty months of the effective date of
23 this article.

24 (c) Every member who completes sixty months of
25 covered employment is eligible, upon cessation of covered
26 employment, to either withdraw his or her accumulated
27 contributions in accordance with subsection (a) of this
28 section, or to choose not to withdraw his or her
29 accumulated contribution and to receive retirement
30 income payments upon attaining early or normal
31 retirement age.

§7-14D-14. Awards and benefits for disability — Duty related.

1 Any member who after the effective date of this article
2 and during covered employment: (A) Has been or
3 becomes either totally or partially disabled by injury,
4 illness or disease; and (B) the disability is a result of an
5 occupational risk or hazard inherent in or peculiar to the
6 services required of members; or (C) the disability was
7 incurred while performing law enforcement functions
8 during either scheduled work hours or at any other time;
9 and (D) in the opinion of the board, the member is by
10 reason of the disability unable to perform adequately the
11 duties required of a deputy sheriff, is entitled to receive
12 and shall be paid from the fund in monthly installments
13 during the lifetime of the member, or if sooner until the
14 member attains normal retirement age or until the
15 disability sooner terminates, the compensation under
16 either subdivision (a) or (b) of this subsection.

17 (a) If the member is totally disabled, the member shall
18 receive ninety percent of his or her average monthly
19 compensation for the twelve month period preceding the
20 member's disability, or the shorter period if the member
21 has not worked twelve months.

22 (b) If the member is partially disabled, the member
23 shall receive forty-five percent of his or her average
24 monthly compensation for the twelve-month period
25 preceding the member's disability, or the shorter period if
26 the member has not worked twelve months.

27 If the member remains totally disabled until attaining
28 sixty-five years of age, the member shall then receive the
29 retirement benefit provided for in sections eleven and
30 twelve of this article.

31 If the member remains partially disabled until
32 attaining sixty years of age the member shall then receive
33 the retirement benefit provided for in sections eleven and
34 twelve of this article.

§7-14D-15. Same — Due to other causes.

1 (a) Any member who after the effective date of this
2 article and during covered employment: (1) Has been or
3 becomes totally or partially disabled from any cause other
4 than those set forth in section fourteen of this article and
5 not due to vicious habits, intemperance or willful
6 misconduct on his or her part; and (2) in the opinion of
7 the board, he or she is by reason of the disability unable to
8 perform adequately the duties required of a deputy
9 sheriff, is entitled to receive and shall be paid from the
10 fund in monthly installments during the lifetime of the
11 member, or if sooner until the member attains normal
12 retirement age or until the disability sooner terminates the
13 compensation set forth in, either subsection (b) or (c) of
14 this section.

15 (b) If the member is totally disabled, he or she shall
16 receive sixty six and two thirds percent of his or her
17 average monthly compensation for the twelve-month
18 period preceding the disability, or the shorter period, if the
19 member has not worked twelve months.

20 (c) If the member is partially disabled, he or she shall
21 receive thirty three and one-third percent of his or her
22 average monthly compensation for the twelve-month
23 period preceding the disability, or the shorter period, if the
24 member has not worked twelve months.

25 (d) If the member remains disabled until attaining
26 sixty years of age, then the member shall receive the
27 retirement benefit provided for in sections eleven and
28 twelve of this article.

29 (e) The board shall propose legislative rules for
30 promulgation in accordance with the provisions of article
31 three, chapter twenty-nine-a of this code concerning
32 member disability payments so as to ensure that the
33 payments do not exceed one hundred percent of the
34 average current salary in any given county for the position
35 last held by the member.

§7-14D-16. Same — Physical examinations; termination of disability.

1 (a) The board may require any member who has
2 applied for or is receiving disability benefits under this
3 article to submit to a physical examination, mental
4 examination or both, by a physician or physicians selected
5 or approved by the board and may cause all costs incident
6 to the examination and approved by the Board to be paid
7 from the fund. The costs may include hospital,
8 laboratory, X ray, medical and physicians' fees. A report
9 of the findings of any physician shall be submitted in
10 writing to the board for its consideration. If, from the
11 report, independent information, or from the report and
12 any hearing on the report, the board is of the opinion and
13 finds that: (1) The member has become reemployed as a
14 law-enforcement officer; (2) two physicians who have
15 examined the member have found that considering the
16 opportunities for law enforcement in West Virginia, the
17 member could be so employed as a deputy sheriff; or (3)
18 other facts exist to demonstrate that the member is no
19 longer totally disabled or partially disabled as the case
20 may be, then the disability benefits shall cease. If the
21 member was totally disabled and is found to have
22 recovered, the board shall determine whether the member
23 continues to be partially disabled. If the board finds that
24 the member is no longer totally disabled but is partially
25 disabled, then the member shall continue to receive partial
26 disability benefits in accordance with this article. Benefits
27 shall cease once the member has been found to be no
28 longer either totally or partially disabled: *Provided*, that
29 the board shall require recertification for each partial or
30 total disability at regular intervals as specified by the
31 guidelines adopted by the public employees retirement
32 system.

§7-14D-17. Prior disability.

1 Any deputy sheriff who became totally disabled as a
 2 result of illness or injury incurred in the line of duty prior
 3 to the effective date of this article may be a member of the
 4 plan at his or her election and is entitled to disability,
 5 death and retirement benefits under this article in lieu of
 6 any other disability, death or retirement benefits provided
 7 by the state or his or her county of employment:
 8 *Provided*, That the deputy would have been eligible for
 9 disability under section fourteen of this article had that
 10 section been in effect at the time of the disability. The
 11 amounts of the benefits shall be determined as if the
 12 disability first commenced after the effective date of this
 13 article with monthly compensation equal to that average
 14 monthly compensation which the member was receiving in
 15 the plan year prior to the initial disability.

§7-14D-18. Awards and benefits to surviving spouse — When member dies in performance of duty, etc.

1 (a) The surviving spouse of any member who, after the
 2 effective date of this article while in covered employment,
 3 has died or dies, by reason of injury, illness or disease
 4 resulting from an occupational risk or hazard inherent in
 5 or peculiar to the service required of members, while the
 6 member was or is engaged in the performance of his or
 7 her duties as a deputy sheriff, or the survivor spouse of a
 8 member who dies from any cause while receiving benefits
 9 pursuant to section fourteen of this article, is entitled to
 10 receive and shall be paid from the fund benefits as
 11 determined in subsection (b) of this section: To the
 12 surviving spouse annually, in equal monthly installments
 13 during his or her lifetime an amount equal to the greater
 14 of: (i) Two thirds of the base salary received in the
 15 preceding twelve-month period by the deceased member;
 16 or (ii) if the member dies after his or her early or normal
 17 retirement age, the monthly amount which the spouse
 18 would have received had the member retired the day
 19 before his or her death, elected a one hundred percent
 20 joint and survivor annuity with the spouse as the joint
 21 annuitant, and then died.

22 (b) Benefits for a surviving spouse received under this
23 section, section twenty and section twenty-one of this
24 article are in lieu of receipt of any other benefits under
25 this article for the spouse or any other person or under the
26 provisions of any other state retirement system based upon
27 the member's covered employment.

§7-14D-19. Same — When member dies from nonservice-connected causes.

1 (a) In any case where a member who has been a
2 member for at least ten years, while in covered
3 employment after the effective date of this article, has died
4 or dies from any cause other than those specified in
5 section eighteen of this article and not due to vicious
6 habits, intemperance or willful misconduct on his or her
7 part, the fund shall pay annually in equal monthly
8 installments to the surviving spouse during his or her
9 lifetime, a sum equal to the greater of: (i) One half of the
10 base salary received in the preceding twelve-month
11 employment period by the deceased member; or (ii) if the
12 member dies after his or her early or normal retirement
13 age, the monthly amount which the spouse would have
14 received had the member retired the day before his or her
15 death, elected a one hundred percent joint and survivor
16 annuity with the spouse as the joint annuitant, and then
17 died. Where the member is receiving disability benefits
18 under section fourteen of this article at the time of his or
19 her death, the most recent monthly compensation
20 determined under section seventeen of this article shall be
21 substituted for the base salary in (i) of this section.

22 (b) Benefits for a surviving spouse received under this
23 section, section twenty and section twenty-one of this
24 article are in lieu of receipt of any other benefits under
25 this article for the spouse or any other person or under the
26 provisions of any other state retirement system based upon
27 the member's covered employment.

§7-14D-20. Additional death benefits and scholarships — Dependent children.

1 (a) In addition to the spouse death benefits in sections
2 eighteen and nineteen of this article, the surviving spouse

3 is entitled to receive and there shall be paid to the spouse
4 one hundred dollars monthly for each dependent child.

5 (b) If the surviving spouse dies or if there is no
6 surviving spouse, the fund shall pay monthly to each
7 dependent child a sum equal to one fourth of the
8 surviving spouse's entitlement under either section
9 nineteen or twenty of this article. If there is neither a
10 surviving spouse nor a dependent child, the fund shall pay
11 in equal monthly installments to the dependent parents of
12 the deceased member during their joint lifetimes a sum
13 equal to the amount which a surviving spouse, without
14 children, would have received: *Provided*, That when there
15 is only one dependent parent surviving, that parent is
16 entitled to receive during his or her lifetime one-half the
17 amount which both parents, if living, would have been
18 entitled to receive.

19 (c) Any person qualifying as a dependent child under
20 this, in addition to any other benefits due under this or
21 other sections of this article, is entitled to receive a
22 scholarship to be applied to the career development
23 education of that person. This sum, up to but not
24 exceeding six thousand dollars per year, shall be paid
25 from the fund to any university or college in this state or
26 to any trade or vocational school or other entity in this
27 state approved by the board, to offset the expenses of
28 tuition, room and board, books, fees or other costs
29 incurred in a course of study at any of these institutions so
30 long as the recipient makes application to the board on an
31 approved form and under such rules as the board may
32 provide, and maintains scholastic eligibility as defined by
33 the institution or the board. The Board may propose
34 legislative rules for promulgation in accordance with
35 article three, chapter twenty-nine-a of this code which
36 define age requirements, physical and mental
37 requirements, scholastic eligibility, disbursement methods,
38 institutional qualifications and other requirements as
39 necessary and not inconsistent with this section.

§17-14D-21. Burial benefit.

1 Any member who dies as a result of any service
2 related illness or injury after the effective date is entitled to

3 a lump sum burial benefit of five thousand dollars. If the
4 member is married, the burial benefit will be paid to the
5 member's spouse. If the member is not married, the
6 burial benefit will be paid to the member's estate for the
7 purposes of paying burial expenses, settling the member's
8 final affairs, or both. Any unspent balance shall be
9 distributed as a part of the member's estate. If the
10 member is not entitled to a death benefit under sections
11 nineteen and twenty of this article, then if greater, the
12 amount payable to the member's estate shall be his or her
13 accumulated contributions.

§7-14D-22. Double death benefits prohibited.

1 A surviving spouse is not entitled to receive
2 simultaneous death benefits under this article as a result of
3 the death of two or more members to whom the spouse
4 was married. Any spouse who becomes eligible for a
5 subsequent death benefit under this article while receiving
6 a death benefit under this article shall receive the higher
7 benefit, but not both.

§7-14D-23. Loans to members.

1 (a) A member who is not yet receiving disability or
2 retirement income benefits from the plan may borrow
3 from the plan an amount up to one half of his or her
4 accumulated contributions, but not less than five hundred
5 dollars nor more than eight thousand dollars. No loan
6 may be made from the plan if the board determines that
7 the loans constitute more than fifteen percent of the
8 amortized cost value of the assets of the plan as of the last
9 day of the preceding plan year. The board may
10 discontinue the loans any time it determines that cash flow
11 problems might develop as a result of the loans. Each
12 loan shall be repaid through monthly installments over
13 periods of six through sixty months and carry interest on
14 the unpaid balance and an annual effective interest rate
15 that is two hundred basis points higher than the most
16 recent rate of interest used by the board for determining
17 actuarial contributions levels. Monthly loan payments
18 shall be calculated to be as nearly equal as possible with all
19 but the final payment being an equal amount. An eligible
20 member may make additional loan payments or pay off

21 the entire loan balance at any time without incurring any
 22 interest penalty. At the member's option, the monthly
 23 loan payment may include a level premium sufficient to
 24 provide declining term insurance with the plan as
 25 beneficiary to repay the loan in full upon the member's
 26 death. If a member declines the insurance and dies before
 27 the loan is repaid, the unpaid balance of the loan shall be
 28 deducted from the lump sum insurance benefit payable
 29 under section twenty-one of this article.

30 (b) A member with an unpaid loan balance who wishes
 31 to retire may have the loan repaid in full by accepting
 32 retirement income payments reduced by deducting from
 33 the actuarial reserve for the accrued benefit the amount of
 34 the unpaid balance and then converting the remaining of
 35 the reserve to a monthly pension payable in the form of
 36 the annuity desired by the member.

§7-14D-24. Service as sheriff.

1 Any member who after the effective date of this article
 2 is elected sheriff of a county in West Virginia may elect to
 3 continue as a member in this plan by paying the amounts
 4 required by section seven of this article. Upon the
 5 election, service as a sheriff shall be treated as covered
 6 employment and the sheriff is not entitled to any credit
 7 for that service under any other retirement system of the
 8 state.

§7-14D-25. Exemption from taxation, garnishment and other process.

1 The moneys in the fund and the right of a member,
 2 spouse or other beneficiary to benefits under this article,
 3 to the return of contributions, or to any retirement, death
 4 or disability payments under the provisions of this article,
 5 are exempt from any state or municipal tax; are not
 6 subject to execution, garnishment, attachment or any other
 7 process whatsoever with the exception that the benefits are
 8 subject to a qualified domestic relations order as that term
 9 is defined in section 414 (p) of the Internal Revenue
 10 Code; and are unassignable except as is provided in this
 11 article.

§7-14D-26. Fraud; penalties; and repayment.

1 Any person who knowingly makes any false statement
2 or who falsifies or permits to be falsified any record of the
3 retirement system in any attempt to defraud that system is
4 guilty of a misdemeanor and, upon conviction, shall be
5 punished by a fine not to exceed one thousand dollars, by
6 confinement in the county or regional jail not to exceed
7 one year, or by both a fine and confinement. Any
8 increased benefit received by any person as a result of the
9 falsification or fraud shall be returned to the fund upon
10 demand by the board.

**§7-14D-27. Credit toward retirement for member's prior
military service; credit toward retirement
when member has joined armed forces in time
of armed conflict.**

1 (a) Any member who has previously served on active
2 military duty is entitled to receive additional years of
3 service for the purpose of determining his or her years of
4 credited service for a period equal to the active military
5 duty not to exceed five years, subject to the following:

6 (1) That he or she has been honorably discharged
7 from the armed forces;

8 (2) That he or she substantiates by appropriate
9 documentation or evidence his or her period of active
10 military duty; and

11 (3) That he or she is receiving no benefits from any
12 other retirement system for his or her active military duty.

13 (b) In addition, any member who while in covered
14 employment was commissioned, enlisted or inducted into
15 the armed forces of the United States or, being a member
16 of the reserve officers' corps, was called to active duty in
17 the armed forces between the first day of September, one
18 thousand nine hundred forty, and the close of hostilities in
19 World War II, or between the twenty-seventh day of June,
20 one thousand nine hundred fifty, and the close of the
21 armed conflict in Korea on the twenty-seventh day of July,
22 one thousand nine hundred fifty-three, between the first
23 day of August, one thousand nine hundred sixty-four and

24 the close of the armed conflict in Vietnam, or during any
 25 other period of armed conflict by the United States
 26 whether sanctioned by a declaration of war by the
 27 Congress or by executive or other order of the president,
 28 is entitled to and shall receive credited service, for a period
 29 equal to the full time that he or she has or, pursuant to that
 30 commission, enlistment, induction or call, shall have served
 31 with the armed forces subject to the following:

32 (1) That he or she has been honorably discharged
 33 from the armed forces;

34 (2) That within ninety days after honorable discharge
 35 from the armed forces, he or she presented himself or
 36 herself to the county commission and offered to resume
 37 service as a deputy sheriff; and

38 (3) That he or she has made no voluntary act, whether
 39 by reenlistment, waiver of discharge, acceptance of
 40 commission or otherwise, to extend or participate in
 41 extension of the period of service with the armed forces
 42 beyond the period of service for which he or she was
 43 originally commissioned, enlisted, inducted or called.

44 (c) The total amount of service allowable under
 45 subsections (a) and (b) of this section may not exceed five
 46 years.

47 (d) Any service credit allowed under this section may
 48 be credited one time only for each deputy sheriff,
 49 regardless of any changes in job title or responsibilities.

§7-14D-28. Pro rata reduction of annuities.

1 Any provision in this article to the contrary
 2 notwithstanding, if at the end of any fiscal year the total of
 3 the annuities paid from the retirement fund during the
 4 said fiscal year is more than ten percent of the sum of the
 5 balances in the fund at the end of the said fiscal year, the
 6 said annuities payable in the next ensuing fiscal year shall
 7 be reduced, pro rata, so that the sum of the annuities so
 8 reduced shall not exceed ten percent of the sum of the
 9 said balances in the fund. The said pro rata reduction
 10 shall be applied to all annuities payable in the said ensuing
 11 fiscal year.

§7-14D-29. Effective date; report to joint committee on government and finance; special starting date for benefits.

1 (a) The provisions of this article become effective the
2 first day of July, one thousand nine hundred ninety-eight:
3 *Provided*, That no payout of any benefits may be made to
4 any person prior to the first day of January, two thousand:
5 *Provided however*, That members who retired due to a
6 disability may begin receiving the benefits at the rate and
7 in the amount specified in either section fourteen or
8 section fifteen of this article, as the case may be, from this
9 fund after the thirtieth day of June, one thousand nine
10 hundred ninety-nine: *Provided further*, That until the
11 thirtieth day of June, one thousand nine hundred ninety-
12 nine, those members who retired due to a disability may
13 draw benefits from this fund at the rate and in the amount
14 set forth in section twenty-five, article ten, chapter five of
15 this code.

16 (b) During the eighteen-month period before the pay-
17 out of benefits begins, the joint committee on government
18 and finance shall cause an interim study or studies to be
19 conducted on potential effects of the implementation of
20 this retirement system, including, but not limited to,
21 potential funding mechanisms to provide health insurance
22 coverage for retirees in the fifty to fifty-five age group.

§7-14D-30. Limitation of county liability.

1 No county which has timely met all of its obligations
2 under this article is liable for any payments or
3 contributions to the deputy sheriff retirement plan which
4 are owed to the plan by another county or counties. No
5 county commission may deposit funds into the deputy
6 sheriff retirement fund in excess of the amount specified
7 in section seven of this article, the fees set forth in article
8 fourteen-e of this chapter and the fees set forth in section
9 seventeen, article three, chapter seventeen-a of this code.

ARTICLE 14E. ESTABLISHMENT OF CERTAIN FEES; DEDICATION OF FEE TO DEPUTY SHERIFF RETIREMENT SYSTEM.

§7-14E-1. Legislative findings and purpose.

1 (a) The Legislature hereby finds and declares that the
2 preservation of peace is a necessary and important
3 function and a requirement for an orderly society. This
4 important function is carried on throughout the State of
5 West Virginia at both the state and local level. A very
6 important component of law enforcement in this State are
7 the county sheriffs and their deputies.

8 (b) The Legislature, cognizant that it has enacted
9 retirement legislation for municipal police officers and for
10 the state police, declares that deputy sheriffs are now in
11 need of a retirement system. The Legislature further
12 declares that the deputy sheriffs of this state are
13 professional law enforcement officers who keep the peace,
14 help and protect the citizens of this state. The Legislature
15 finds that, when it comes to retirement, the deputy sheriffs
16 are treated differently than other law enforcement officers
17 in this state.

18 (c) For the foregoing reasons, and for other important
19 reasons, the Legislature created the deputy sheriffs
20 retirement system under article fourteen-d of this chapter.
21 The fees established in this article are to help ensure the
22 actuarial soundness of the deputy sheriff retirement
23 system.

§7-14E-2. Statewide uniform fees for reports generated by Sheriff's offices; dedication of fees.

1 (a) Effective the first day of July, one thousand nine
2 hundred ninety-eight, the county commission of each
3 county in this state shall set a fee for obtaining certain
4 reports. This fee shall be set at a minimum of ten dollars
5 for each report, with a maximum of twenty dollars for
6 each report. Ten dollars of the charge for each report
7 shall be deposited into the deputy sheriff retirement fund
8 created in section six, article fourteen-d, chapter seven of
9 this code. The reports for which a charge may be made
10 are traffic accident reports, criminal investigation reports,
11 incident reports and property reports.

12 (b) Effective the first day of July, one thousand nine
13 hundred ninety-eight, all sheriff offices in this state shall
14 collect a fee of five dollars for performing the following
15 services: adult private employment fingerprinting;
16 fingerprinting for federal firearm permits; motor vehicle
17 number identification; adult identification card and photo-
18 identification card. Upon collection, these fees shall be
19 deposited into the deputy sheriff retirement fund created
20 in section six, article fourteen-d, of this chapter.

21 (c) Effective the first day of July, one thousand nine
22 hundred ninety-eight, all sheriff offices in this state shall
23 collect a fee of five dollars for each non-governmental
24 background investigation report. Upon collection, these
25 fees shall be deposited into the deputy sheriff retirement
26 fund created in section six, article fourteen-d, chapter
27 seven of this code.

28 (d) No charge may be made under this section for any
29 report or reports made to governmental agencies.

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND
ANTITHEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION;
ISSUANCE OF CERTIFICATES OF TITLE.**

**§17A-3-17. Application for and renewal of registration;
sheriffs authorized to issue renewals of
registration for certain vehicles.**

1 (a) Application for renewal of a vehicle registration
2 shall be made by the vehicle owner by proper application
3 and payment of taxes and registration fees provided by
4 law.

5 (b) The division may receive applications for renewal
6 of any vehicle registration and each sheriff shall receive
7 applications from residents in his or her county for
8 renewal of any Class A or G vehicle registration: The
9 division and each sheriff shall issue the renewals of
10 registration each receives, respectively, in accordance with
11 all of the provisions in this article pertaining to renewal of

12 vehicle registration including, but not limited to, the
13 payment of the taxes and fees required thereunder.

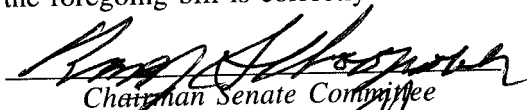
14 (c) Each sheriff shall charge a service fee of one dollar
15 for each renewal of a Class A or G vehicle registration he
16 or she issues. Effective the first day of July, one thousand
17 nine hundred ninety-eight the sheriff shall pay one-half of
18 this fee into the county general fund. The sheriff shall
19 pay the remaining one-half of this fee into the deputy
20 sheriff retirement fund created in section six, article
21 fourteen-d, chapter seven of this code.

22 (d) On the first day of each month, each sheriff shall
23 pay over to the commissioner all fees he or her collected
24 during the preceding month for renewal of Class A and G
25 vehicle registrations, except his or her service fees. The
26 payment shall be accompanied by a report showing the
27 name of the county, the name and address of the person
28 who obtained the registration and paid the registration fee
29 therefor, the vehicle registered, the registration number,
30 the date the registration was issued, the signature of the
31 sheriff and any other information the commissioner may
32 reasonably require in order to maintain the functions and
33 records of the department. The commissioner shall
34 deposit all fees he or she receives from the sheriffs for
35 renewal of Class A and G vehicle registrations in the state
36 treasury to the credit of the state road fund as provided in
37 section twenty-one, article two of this chapter.

38 (e) The commissioner shall provide each sheriff with
39 the necessary forms, supplies, registration plates,
40 registration decals and instructions necessary to enable
41 him or her to perform the duties and functions specified
42 in this section.

43 (f) No person may display upon a vehicle a new
44 registration plate or registration decal prior to the first day
45 of the month preceding the new registration period.

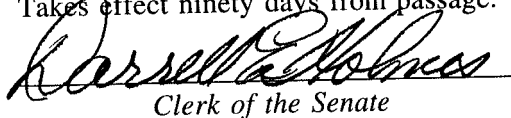
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

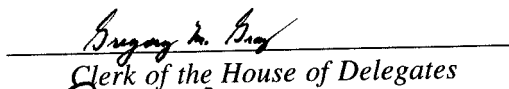

Chairman Senate Committee

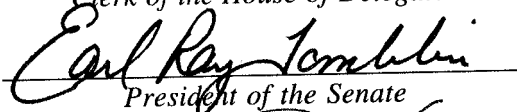

Chairman House Committee

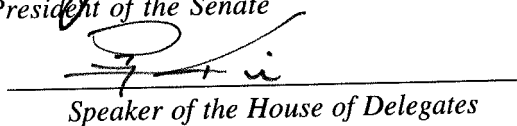
Originating in the House.

Takes effect ninety days from passage.

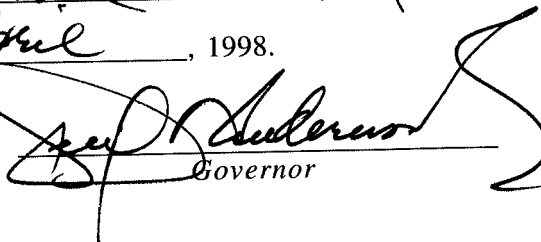

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 24
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR)

Date 3/31/98

Time 11:05 am