

HB 2615

RECEIVED

99 APR 17 AM 9 38

OFFICE OF THE CLERK
SOUTH WEST CORNER

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2615

(By Mr. Speaker, Mr. Kiss, and Delegates Martin,
Jenkins, Douglas, Varner, Pettit and Staton)



Passed March 13, 1999

In Effect from Passage

RECEIVED

99 APR -7 AM 9 36

OFFICE OF THE CLERK
SERVICES DIVISION

ENROLLED
COMMITTEE SUBSTITUTE

FOR

H. B. 2615

(BY MR. SPEAKER, MR. KISS, AND DELEGATES MARTIN,
JENKINS, DOUGLAS, VARNER, PETTIT AND STATON)

[Passed March 13, 1999; in effect from passage.]

AN ACT to amend and reenact sections two, five, seven, eight, nine, eleven, seventeen, twenty-one, twenty-four and twenty-nine, article fourteen-d, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to technical corrections to the "Deputy Sheriff Retirement Act"; expanding the definition of "covered employment" to include additional employment which may be covered by another state retirement plan; clarifying that a deputy sheriff who elects membership in the deputy sheriff retirement system may not also accrue benefits in any other plan administered by the consolidated public retirement board while that deputy sheriff is an active member of the deputy sheriff plan; clarifying the assets to be transferred from the public employees retirement system to the deputy sheriff retirement system; allowing transferring deputy sheriffs until the first day of January, two thousand, to pay all amounts into the deputy sheriff retirement system; clarifying that any deputy sheriff who became totally disabled as a result of duty

related injury or illness which occurred prior to the inception of the deputy sheriff retirement plan may become a member of the deputy sheriff retirement system unless he or she is receiving, or would receive, in addition to the deputy sheriff retirement system benefit, a retirement or disability benefit from another state retirement system; clarifying retirement benefits; clarifying adjustment of benefits where early retirement is elected; specifying starting dates for annuities; providing additional time periods in which a deputy sheriff may elect to transfer into the deputy sheriff plan from the public employees retirement system; specifying the credit to be given to those deputy sheriffs who transfer to the deputy sheriff retirement system from the public employees retirement system for certain service in addition to that as a deputy sheriff; providing for transfer of credited service under the public employees retirement system for individuals who meet certain requirements; and providing for promulgation of a rule by the director of the public employees insurance agency to govern the funding of insurance coverage for certain retirees of the deputy sheriff's retirement system.

Be it enacted by the Legislature of West Virginia:

That sections two, five, seven, eight, nine, eleven, seventeen, twenty-one, twenty-four and twenty-nine, article fourteen-d, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT ACT.

§7-14D-2. Definitions.

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

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

8 (b) "Accumulated contributions" means the sum of all
9 amounts deducted from the compensation of a member, or paid
10 on his or her behalf pursuant to article ten-c, chapter five of this

11 code, either pursuant to section seven of this article or section
12 twenty-nine, article ten, chapter five of this code as a result of
13 covered employment together with regular interest on the
14 deducted amounts.

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

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

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

38 (f) "Annual leave service" means accrued annual leave.

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

42 (h) "Base salary" means a member's cash compensation
43 exclusive of overtime from covered employment during the last
44 twelve months of employment. Until a member has worked
45 twelve months, annualized base salary is used as base salary.

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

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

50 (k) "Covered employment" means either: (1) Employment
51 as a deputy sheriff and the active performance of the duties
52 required of a deputy sheriff; (2) the period of time which active
53 duties are not performed but disability benefits are received
54 under section thirteen or fourteen of this article; or (3) concur-
55 rent employment by a deputy sheriff in a job or jobs in addition
56 to his or her employment as a deputy sheriff where such
57 secondary employment requires the deputy sheriff to be a
58 member of another retirement system which is administered by
59 the consolidated public retirement board pursuant to article ten-
60 d of chapter five of this code: *Provided*, That the deputy sheriff
61 contribute to the fund created in section six of this article the
62 amount specified as the deputy sheriff's contribution in section
63 seven of this article.

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

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

71 (n) "Dependent child" means:

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

73 (A) A natural child of the member;

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

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

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

80 (2) Any unmarried child under age twenty-three: (A) Who
81 is enrolled as a full-time student in an accredited college or
82 university; (B) who was claimed as a dependent by the member
83 for federal income tax purposes at the time of member's death;
84 and (C) whose relationship with the member is described in
85 subparagraph (A), (B) or (C), paragraph (1) of this subdivision.

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

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

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

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

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

109 (t) "Fund" means the West Virginia deputy sheriff retire-
110 ment fund created pursuant to section six of this article.

111 (u) "Hour of service" means:

112 (1) Each hour for which a member is paid or entitled to
113 payment for covered employment during which time active
114 duties are performed. These hours shall be credited to the

115 member for the plan year in which the duties are performed;
116 and

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

128 (3) Each hour for which back pay is either awarded or
129 agreed to be paid by the employing county commission,
130 irrespective of mitigation of damages. The same hours of
131 service shall not be credited both under paragraph (1) or (2) of
132 this subdivision, and under this paragraph. Hours under this
133 paragraph shall be credited to the member for the plan year or
134 years to which the award or agreement pertains, rather than the
135 plan year in which the award, agreement or payment is made.

136 (v) "Member" means a person first hired as a deputy sheriff
137 after the effective date of this article, as defined in subsection
138 (r) of this section, or a deputy sheriff first hired prior to the
139 effective date and who elects to become a member pursuant to
140 section five or section seventeen of this article. A member shall
141 remain a member until the benefits to which he or she is
142 entitled under this article are paid or forfeited.

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

145 (x) "Normal form" means a monthly annuity which is one
146 twelfth of the amount of the member's accrued benefit which
147 is payable for the member's life. If the member dies before the
148 sum of the payments he or she receives equals his or her
149 accumulated contributions on the annuity starting date, the
150 named beneficiary shall receive in one lump sum the difference

151 between the accumulated contributions at the annuity starting
152 date and the total of the retirement income payments made to
153 the member.

154 (y) "Normal retirement age" means the first to occur of the
155 following:

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

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

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

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

165 (z) "Partially disabled" means a member's inability to
166 engage in the duties of deputy sheriff by reason of any medi-
167 cally determinable physical or mental impairment that can be
168 expected to result in death or that has lasted or can be expected
169 to last for a continuous period of not less than twelve months.
170 A member may be determined partially disabled for the
171 purposes of this article and maintain the ability to engage in
172 other gainful employment which exists within the state but
173 which ability would not enable him or her to earn an amount at
174 least equal to two thirds of the annual compensation earned by
175 all active members of this plan during the plan year ending as
176 of the most recent thirtieth day of June, as of which plan data
177 has been assembled and used for the actuarial valuation of the
178 plan.

179 (aa) "Public employees retirement system" means the West
180 Virginia public employees' retirement system created by article
181 ten, chapter five of this code.

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

184 (cc) "Plan year" means the twelve month period commenc-
185 ing on the first day of July and ending the following thirtieth
186 day of June of any designated year.

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

190 (ee) "Retirement income payments" means the annual
191 retirement income payments payable under the plan.

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

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

197 (hh) "Totally disabled" means a member's inability to
198 engage in substantial gainful activity by reason of any medi-
199 cally determined physical or mental impairment that can be
200 expected to result in death or that has lasted or can be expected
201 to last for a continuous period of not less than twelve months.

202 For purposes of this subdivision:

203 (1) A member is totally disabled only if his or her physical
204 or mental impairment or impairments is so severe that he or she
205 is not only unable to perform his or her previous work as a
206 deputy sheriff but also cannot, considering his or her age,
207 education and work experience, engage in any other kind of
208 substantial gainful employment which exists in the state
209 regardless of whether: (A) The work exists in the immediate
210 area in which the member lives; (B) a specific job vacancy
211 exists; or (C) the member would be hired if he or she applied
212 for work.

213 (2) "Physical or mental impairment" is an impairment that
214 results from an anatomical, physiological, or psychological
215 abnormality that is demonstrated by medically accepted clinical
216 and laboratory diagnostic techniques.

217 A member's receipt of social security disability benefits
218 creates a rebuttable presumption that the member is totally
219 disabled for purposes of this plan. Substantial gainful employ-
220 ment rebuts the presumption of total disability.

221 (ii) "Year of service". A member shall, except in his or her
 222 first and last years of covered employment, be credited with
 223 year of service credit based upon the hours of service performed
 224 as covered employment and credited to the member during the
 225 plan year based upon the following schedule:

226	Hours of Service	Year of Service Credited
227	Less than 500	0
228	500 to 999	1/3
229	1,000 to 1,499	2/3
230	1,500 or more	1

231 During a member's first and last years of covered employ-
 232 ment, the member shall be credited with one twelfth of a year
 233 of service for each month during the plan year in which the
 234 member is credited with an hour of service. A member is not
 235 entitled to credit for years of service for any time period during
 236 which he or she received disability payments under section
 237 fourteen or fifteen of this article. Except as specifically ex-
 238 cluded, years of service include covered employment prior to
 239 the effective date.

240 Years of service which are credited to a member prior to his
 241 or her receipt of accumulated contributions upon termination of
 242 employment pursuant to section thirteen of this article or
 243 section thirty, article ten, chapter five of this code, shall be
 244 disregarded for all purposes under this plan unless the member
 245 repays the accumulated contributions with interest pursuant to
 246 section twelve of this article or had prior to the effective date
 247 made the repayment pursuant to section eighteen, article ten,
 248 chapter five of this code.

§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 shall
 3 be a member of this retirement system and plan and does not
 4 qualify for membership in any other retirement system adminis-
 5 tered by the board, so long as he or she remains employed in
 6 covered employment.

7 (b) Any deputy sheriff employed in covered employment on
 8 the effective date of this article shall within six months of that

9 effective date notify in writing both the county commission in
10 the county in which he or she is employed and the board of his
11 or her desire to become a member of the plan: *Provided*, That
12 this time period is extended to the thirtieth day of January, one
13 thousand nine hundred ninety-nine, in accordance with the
14 decision of the supreme court of appeals in *West Virginia*
15 *Deputy Sheriffs' Association, et al v. James L. Simms, et al, No.*
16 *25212: Provided however*, That any deputy sheriff employed in
17 covered employment on the effective date of this article has an
18 additional time period consisting of the ten-day period follow-
19 ing the day after which the amended provisions of this section
20 become law to notify in writing both the county commission in
21 the county in which he or she is employed and the board of his
22 or her desire to become a member of the plan. Any deputy
23 sheriff who elects to become a member of the plan ceases to be
24 a member or have any credit for covered employment in any
25 other retirement system administered by the board and shall
26 continue to be ineligible for membership in any other retirement
27 system administered by the board so long as the deputy sheriff
28 remains employed in covered employment in this plan: *Pro-*
29 *vided further*, That any deputy sheriff who elects during the
30 time period from July one, one thousand nine hundred ninety-
31 eight, to January thirtieth, one thousand nine hundred ninety-
32 nine, or who so elects during the ten day time period occurring
33 immediately following the day after the day the amendments
34 made during the one thousand nine hundred ninety-nine
35 legislative session become law, to transfer from the public
36 employees retirement system to the plan created in this article
37 shall contribute to the plan created in this article at the rate set
38 forth in section seven of this article retroactive to the first day
39 of July, one thousand nine hundred ninety-eight. Any deputy
40 sheriff who does not affirmatively elect to become a member of
41 the plan continues to be eligible for any other retirement system
42 as is from time to time offered to other county employees but
43 is ineligible for this plan regardless of any subsequent termina-
44 tion of employment and rehire.

45 (c) Any deputy sheriff who was employed as a deputy
46 sheriff prior to the effective date, but was not employed on the

47 effective date of this article, shall become a member upon
48 rehire as a deputy sheriff. For purposes of this section, the
49 member's years of service and credited service prior to the
50 effective date shall not be counted for any purposes under this
51 plan unless: (1) The deputy sheriff has not received the return
52 of his or her accumulated contributions in the public employees
53 retirement fund system pursuant to section thirty, article ten,
54 chapter five of this code; or (2) the accumulated contributions
55 returned to the member from the public employees retirement
56 system have been repaid pursuant to section twelve of this
57 article. If the conditions of subdivision (1) or (2) of this
58 subsection are met, all years of the deputy sheriff's covered
59 employment shall be counted as years of service for the
60 purposes of this article. Each transferring deputy sheriff shall be
61 given credited service for the purposes of this article for all
62 covered employment transferred from the public employees
63 retirement system regardless of whether such credited service
64 (as that term is defined in section two, article ten, chapter five
65 of this code) was earned as a deputy sheriff. All service in the
66 public employees retirement system accrued by a transferring
67 deputy sheriff shall be transferred into the plan created by this
68 article and the transferring deputy sheriff shall be given the
69 same credit for the purposes of this article for all such covered
70 service which is transferred from the public employees retire-
71 ment system as that transferring deputy sheriff would have
72 received from the public employees retirement system if such
73 transfer had not occurred. In connection with each deputy
74 sheriff receiving credit for prior employment provided in this
75 subsection, a transfer from public employees retirement system
76 to this plan shall be made pursuant to the procedures described
77 in section eight of this article.

78 (d) Once made, the election made under this section is
79 irrevocable. All deputy sheriffs first employed after the
80 effective date and deputy sheriffs electing to become members
81 as described in this section shall be members as a condition of
82 employment and shall make the contributions required by
83 section seven of this article.

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

1 There shall be deducted from the monthly salary of each
2 member and paid into the fund an amount equal to eight and
3 one-half percent of his or her monthly salary. Any active
4 member who has concurrent employment in an additional job
5 or jobs and such additional employment requires the deputy
6 sheriff to be a member of another retirement system which is
7 administered by the consolidated public retirement board
8 pursuant to article ten-d, chapter five of this code shall contrib-
9 ute to the fund the sum of eight and one-half percent of his or
10 her monthly salary earned as a deputy sheriff as well as the sum
11 of eight and one-half percent of his or her monthly salary
12 earned from any additional employment which additional
13 employment requires the deputy sheriff to be a member of
14 another retirement which is administered by the consolidated
15 public retirement board pursuant to article ten-d, chapter five of
16 this code. An additional nine and one-half percent of the
17 monthly salary of each member shall be paid to the fund by the
18 county commission of the county in which the member is
19 employed in covered employment. If the board finds that the
20 benefits provided by this article can be actually funded with a
21 lesser contribution, then the board shall reduce the required
22 member and employer contributions proportionally.

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

1 (a) The consolidated retirement board shall, within ninety
2 days of the effective date of the transfer of a deputy sheriff
3 from the public employees retirement system to the plan,
4 transfer assets from the public employees retirement system
5 trust fund into the West Virginia deputy sheriff trust fund.

6 (b) The amount of assets to be transferred for each transfer-
7 ring deputy sheriff shall be computed as of the first day of July,
8 one thousand nine hundred ninety-eight, using the actuarial
9 valuation assumptions in effect for the first day of July, one
10 thousand nine hundred ninety-eight, actuarial valuation of
11 public employees retirement system, and updated with seven
12 and one-half percent annual interest to the date of the actual
13 asset transfer. The market value of the assets of the transferring
14 deputy sheriff in the public employees retirement system shall

15 be determined as of the end of the month preceding the actual
16 transfer. To determine the computation of the asset share to be
17 transferred the board shall:

18 (1) Compute the market value of the public employees
19 retirement system assets;

20 (2) Compute the accrued liability for all public employees
21 retirement system retirees, beneficiaries, disabled retirees and
22 terminated inactive members;

23 (3) Reduce the market value of public employees retirement
24 system assets by the accrued liability determined in subdivision
25 (2) of this subsection;

26 (4) Compute the entry age method accrued liability for all
27 active public employees retirement system members;

28 (5) Compute the share of accrued liability as determined
29 pursuant to subdivision (4) of this subsection, that is attribut-
30 able to those deputy sheriffs in public employees retirement
31 system who have elected to transfer to the plan;

32 (6) Compute the percentage of active's accrued liability
33 computed to the deputy sheriffs by dividing subdivision (5) by
34 subdivision (4) of this subsection;

35 (7) Determine the asset share to be transferred from public
36 employees retirement system to the plan by multiplying
37 subdivision (3) times subdivision (6) of this subsection.

38 (c) Once a deputy sheriff has elected to transfer from the
39 public employees retirement system, transfer of that amount as
40 calculated in accordance with the provisions of subsection (b)
41 of this section by the public employees retirement system shall
42 operate as a complete bar to any further liability to the transfer-
43 ring from the public employees retirement system, and consti-
44 tutes an agreement whereby the transferring deputy sheriff
45 forever indemnifies and holds harmless the public employees
46 retirement system from providing him or her any form of
47 retirement benefit whatsoever until such time as that deputy
48 sheriff obtains other employment which would make him or her
49 eligible to re-enter the public employees retirement system with

50 no credit whatsoever for the amounts transferred to the deputy
51 sheriff's retirement system.

52 (d) The board shall cause a judicial determination to be
53 made regarding the transfer of assets from the public employees
54 retirement system to the deputy sheriff's retirement system by
55 causing a suit to be filed in the supreme court of this state
56 seeking a writ of mandamus on or before the thirty-first day of
57 July, one thousand nine hundred ninety-eight.

58 (e) Any deputy sheriff who elected, on or before the
59 thirtieth day of January, one thousand nine hundred ninety-nine,
60 to transfer to the plan created by this article, has until the first
61 day of January, two thousand to pay any amounts required by
62 section seven of this article as a result of the deputy sheriff's
63 transfer to the deputy sheriff retirement fund.

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

1 A member may retire and commence to receive retirement
2 income payments on the first day of the calendar month
3 coincident with or next following the later of the date the
4 member ceases employment and the date the member attains
5 early or normal retirement age, in an amount as provided under
6 section eleven of this article, by filing with the board his or her
7 voluntary petition in writing for retirement: *Provided*, That
8 retirement income payments shall commence no later than the
9 first day of April following the member's seventy and one-half
10 year birthday or the cessation of covered employment, which-
11 ever later occurs. Upon receipt of the petition, the board shall
12 promptly provide the member with an explanation of his or her
13 optional forms of retirement benefits and upon receipt of
14 properly executed forms from the member, the board shall
15 process member's request for and commence payments as soon
16 as administratively feasible.

§7-14D-11. Retirement benefits.

1 This section provides for the adjustment of a member's
2 accrued benefit to reflect the difference in age, in years and
3 months, between the member's annuity starting date and the
4 date the member attains normal retirement age. This age

5 adjustment shall be made based upon the normal form of
6 benefit and shall be the actuarial equivalent of the accrued
7 benefit at the member's normal retirement age. The member
8 shall receive the age adjusted retirement income in the normal
9 form or in an actuarial equivalent amount in an optional form
10 as provided under section twelve of this chapter. The first day
11 of the calendar month of birth shall be used in lieu of any birth
12 date that does not fall on the first day of a calendar month.

13 (a) *Normal retirement.* — A member whose annuity
14 starting date is the date the member attains normal retirement
15 age, is entitled to his or her accrued benefit without adjustment
16 for age at commencement. To the extent that a member's
17 starting date is later than his or her normal retirement age, the
18 amount of that member's retirement income benefit shall be
19 adjusted as provided in subsection (c) of this section.

20 (b) *Early retirement.* — A member who ceases covered
21 employment and has attained early retirement age while in
22 covered employment may elect to receive retirement income
23 payments commencing on the first day of the month coincident
24 with or following the date the member ceases covered employ-
25 ment. "Normal retirement age" for such a member is the first
26 day of the calendar month coincident with or next following the
27 month in which the member attains the age of fifty years. If the
28 member's annuity starting date is prior to the date the member
29 attains normal retirement age, his or her accrued benefit is
30 reduced to the actuarial equivalent benefit amount based on the
31 years and months by which his or her annuity starting date
32 precedes the date he or she attains normal retirement age. If the
33 member's annuity starting date is later than the date the
34 member attains the age of fifty years, the accrued benefit is
35 adjusted as provided in subsection (c) of this section.

36 (c) *Late retirement.* — A member whose annuity starting
37 date is later than the date the member attains normal retirement
38 age shall receive retirement income payments in the normal
39 form which is the actuarial equivalent of the benefit to which he
40 or she would have been entitled had the retirement income
41 payments commenced at the member's normal retirement age.

42 (d) Retirement benefits shall be paid monthly in an amount
43 equal to one twelfth of the retirement income payments elected
44 and at those times established by the board. Notwithstanding
45 any other provision of the plan, a member who is married on
46 the annuity starting date will receive his or her retirement
47 income payments in the form of a sixty-six and two-thirds
48 percent joint and survivor annuity with his or her spouse unless
49 prior to the annuity starting date the spouse waives the form of
50 benefit.

§7-14D-17. Prior disability.

1 Any deputy sheriff who became totally disabled as a result
2 of illness or injury incurred in the line of duty prior to the
3 effective date of this article may be a member of the plan at his
4 or her election and is entitled to disability, death and retirement
5 benefits under this article in lieu of any other disability, death
6 or retirement benefits provided solely in conjunction with a
7 retirement system of this state or his or her county of employ-
8 ment: *Provided*, That the deputy sheriff would have been
9 eligible for disability under section fourteen of this article had
10 that section been in effect at the time of the disability. The
11 amounts of the benefits shall be determined as if the disability
12 first commenced after the effective date of this article with
13 monthly compensation equal to that average monthly compen-
14 sation which the member was receiving in the plan year prior to
15 the initial disability. For the purposes of this section, benefits
16 paid pursuant to chapter twenty-three of this code are not death
17 or retirement benefits provided solely in conjunction with a
18 retirement system of this state or county of this state.

§7-14D-21. Burial benefit.

1 Any member who dies as a result of any service related
2 illness or injury after the effective date is entitled to a lump sum
3 burial benefit of five thousand dollars. If the member is
4 married, the burial benefit will be paid to the member's spouse.
5 If the member is not married, the burial benefit will be paid to
6 the member's estate for the purposes of paying burial expenses,
7 settling the member's final affairs, or both. Any unspent
8 balance shall be distributed as a part of the member's estate. If

9 the member is not entitled to a death benefit under sections
10 eighteen and nineteen of this article, then if greater, the amount
11 payable to the member's estate shall be his or her accumulated
12 contributions.

§7-14D-24. Service as sheriff.

1 (a) 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 election,
5 service as a sheriff shall be treated as covered employment and
6 the sheriff is not entitled to any credit for that service under any
7 other retirement system of the state.

8 (b) Any person, who before the effective date of this article
9 was elected sheriff of a county in West Virginia, and who,
10 immediately prior to being so elected sheriff, was a deputy
11 sheriff with at least twenty years of credited service under the
12 public employees retirement system, with at least sixteen of
13 those twenty years having been earned as a deputy sheriff, may
14 elect to become a member of this plan by paying the amounts
15 required by section seven of this article. Upon such election,
16 service shall be transferred from the public employees retire-
17 ment system pursuant to section eight of this article: *Provided,*
18 *That any service as a sheriff shall be treated as covered employ-*
19 *ment under this article and the sheriff is not entitled to any*
20 *credit for that service as a sheriff or the prior service as a*
21 *deputy sheriff under any other retirement system of the state.*
22 *Persons making the election provided for in this subsection*
23 *shall do so within ten days of taking office as sheriff or within*
24 *ten days of the effective date of this provision.*

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

1 (a) The provisions of this article become effective the first
2 day of July, one thousand nine hundred ninety-eight: *Provided,*
3 *That no payout of any benefits may be made to any person prior*
4 *to the first day of January, two thousand: Provided, however,*
5 *That members who retired due to a disability may begin*

6 receiving the benefits at the rate and in the amount specified in
7 either section fourteen or section fifteen of this article, as the
8 case may be, from this fund after the thirtieth day of June, one
9 thousand nine hundred ninety-nine: *Provided further*, That until
10 the thirtieth day of June, one thousand nine hundred ninety-
11 nine, those members who retired due to a disability may draw
12 benefits from this fund at the rate and in the amount set forth in
13 section twenty-five, article ten, chapter five of this code.

14 (b) During the eighteen-month period before the payout of
15 benefits begins, the joint committee on government and finance
16 shall cause an interim study or studies to be conducted on
17 potential effects of the implementation of this retirement
18 system, including, but not limited to, potential funding mecha-
19 nisms to provide health insurance coverage for retirees in the
20 fifty to fifty-five age group: *Provided*, That after the effective
21 date of this provision, the director of the public employees
22 insurance agency shall promulgate a rule governing the funding
23 of health insurance coverage for retirees under the plan pro-
24 vided for in this article who are in the fifty to fifty-five year age
25 group, which rule may be filed as an emergency rule: *Provided*,
26 *however*, That any rule filed as an emergency rule pursuant to
27 this subsection shall be refiled at the earliest opportunity as a
28 legislative rule for review and promulgation in accordance with
29 the provisions of article three, chapter twenty-nine-a of this
30 code.

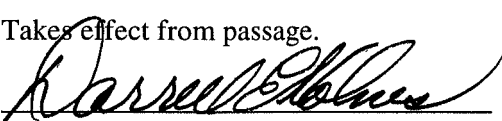
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

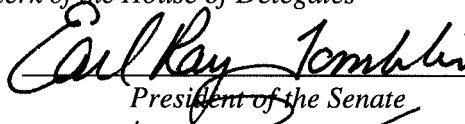

Chairman House Committee

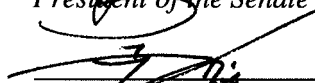
Originating in the House.

Takes effect from passage.

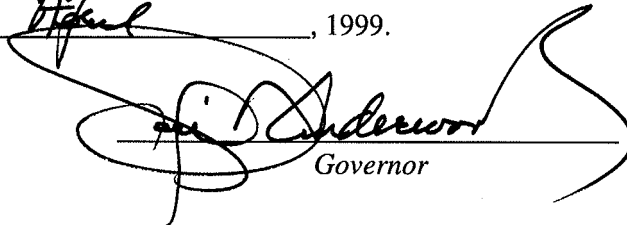

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 6th
day of April, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date

Time

3/30/99

3:35 pm