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2001 MAY -2 P 11:43

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

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**ENROLLED**

**SENATE BILL NO.** 555

**(By Senators Minear, Unger and Pymale)**

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**PASSED** April 14, 2001

**In Effect** July 1, 2001 **Passage**

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**Senate Bill No. 559**

(BY SENATORS MINEAR, UNGER AND PLYMALE)

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[Passed April 14, 2001; to take effect July 1, 2001.]

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AN ACT to amend and reenact section twenty-seven, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to preretirement death benefits under the West Virginia public employees retirement system; clarifying that a lump sum refund amount may be paid as a preretirement death benefit in lieu of an annuity; clarifying that no annuity benefit is due if the member has fewer than ten years of service; and providing that a married member who has at least ten years of service is allowed to name a beneficiary other than a spouse to receive preretirement death benefits if a valid waiver is presented to the retirement board.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-seven, article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

FILED

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**§5-10-27. Preretirement death annuities.**

WEST VIRGINIA  
DEPARTMENT OF STATE

1 (a) In the event any member who has ten or more years  
2 of credited service or any former member with ten or more  
3 years of credited service and who is entitled to a deferred  
4 annuity, pursuant to section twenty-one of this article,  
5 may at any time prior to the effective date of his or her  
6 retirement, by written declaration duly executed and filed  
7 with the board of trustees, in the same manner as if he or  
8 she were then retiring from the employ of a participating  
9 public employer, elect option A provided for in section  
10 twenty-four of this article and nominate a beneficiary  
11 whom the board finds to have had an insurable interest in  
12 the life of the member. Prior to the effective date of his or  
13 her retirement, a member may revoke his or her election of  
14 option A and nomination of beneficiary and he or she may  
15 again prior to his or her retirement elect option A and  
16 nominate a beneficiary as provided in this subsection.  
17 Upon the death of a member who has an option A election  
18 in force, his or her beneficiary, if living, shall immediately  
19 receive an annuity computed in the same manner in all  
20 respects as if the same member had retired the day preced-  
21 ing the date of his or her death, notwithstanding that he or  
22 she might not have attained age sixty years, and elected  
23 the said option A. If at the time of his or her retirement a  
24 member has an option A election in force, his or her  
25 election of option A and nomination of beneficiary shall  
26 thereafter continue in force. As an alternative to annuity  
27 option A, a member or former member may elect to have  
28 the preretirement death benefit paid as a return of accu-  
29 mulated contributions in a lump sum amount to any  
30 beneficiary or beneficiaries he or she chooses.

31 (b) In the event any member who has ten or more years  
32 of credited service, or any former member with ten or more  
33 years of credited service and who is entitled to a deferred  
34 annuity, pursuant to section twenty-one of this article: (1)  
35 Dies; and (2) leaves a surviving spouse, the surviving  
36 spouse shall immediately receive an annuity computed in

37 the same manner in all respects as if the said member had:  
38 (1) Retired the day preceding the date of his or her death,  
39 notwithstanding that he or she might not have attained  
40 age sixty or sixty-two years, as the case may be; (2) elected  
41 option A provided for in section twenty-four of this article;  
42 and (3) nominated his or her surviving spouse as benefi-  
43 ciary. However, the surviving spouse shall have the right  
44 to waive the annuity provided for in this section: *Pro-*  
45 *vided*, That he or she executes a valid and notarized  
46 waiver on a form provided by the retirement board and  
47 that the member or former member attests to the waiver.  
48 If the waiver is presented to and accepted by the retire-  
49 ment board, the member or former member shall nominate  
50 a beneficiary who has an insurable interest in the mem-  
51 ber's or former member's life. As an alternative to annuity  
52 option A, the member or former member may elect to have  
53 the preretirement death benefit paid as a return of accu-  
54 mulated contributions in a lump sum amount to any  
55 beneficiary or beneficiaries he or she chooses in the event  
56 a waiver, as provided for in this section, has been pre-  
57 sented to and accepted by the retirement board.

58 (c) In the event any member who has ten or more years  
59 of credited service or any former member with ten or more  
60 years of credited service and who is entitled to a deferred  
61 annuity, pursuant to section twenty-one of this article: (1)  
62 Dies without leaving surviving him or her a spouse; but (2)  
63 leaves surviving him or her an infant child or children; and  
64 (3) does not have a beneficiary nominated as provided in  
65 subsection (a) of this section, the infant child or children  
66 shall be entitled to an annuity to be calculated as follows:  
67 The annuity reserve shall be calculated as though the  
68 member had retired as of the date of his or her decease and  
69 elected a straight life annuity and the amount of the  
70 annuity reserve shall be paid in equal monthly install-  
71 ments to said the member's infant child or children until  
72 the child or children attain age twenty-one or sooner  
73 marry or become emancipated; however, in no event shall  
74 any child or children receive more than two hundred fifty

75 dollars per month each. The annuity payments shall be  
76 computed as of the date of the death of the member and  
77 the amount of the annuity shall remain constant during  
78 the period of payment. The annual amount of the annu-  
79 ities payable by this section shall not exceed sixty percent  
80 of the deceased member's final average salary.

81 (d) In the event any member or former member does not  
82 have ten or more years of credited service, no  
83 preretirement death annuity may be authorized, owed or  
84 awarded under this section.

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

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2001.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within *approved* this the *2nd*  
Day of *May*, 2001.

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/01

Time 11:15 am