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ENROLLED

Senate Bill No. 563
(By Senators Foster, Edgell, Wells, McCabe and Palumbo)

[Passed March 12, 2011; in effect ninety days from passage.]
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(BY SENATORS FOSTER, EDGELL, WELLS, MCCABE AND PALUMBO)

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22-25a, relating to authorizing municipalities to create deferred retirement option plans for certain employees.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §8-22-25a, to read as follows:

ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

§8-22-25a. Deferred Retirement Option Plans; Authorization; Requirements; Limitations.

1 (a) A deferred retirement option plan is a method to encourage retention of a worker beyond normal retirement age by permitting the worker to freeze retirement benefits at a certain time prior to ceasing work, to continue to work for a specified period and to have retirement benefits which
accrue while the employee continues working set aside in an account which the worker will then receive in a lump sum upon finally discontinuing work. The Legislature acknowledges that a deferred retirement option plan, or “DROP”, may be a useful and economical tool for retaining experienced and trained employees and for planning for turnovers in the workforce. Experience, however, dictates that a deferred retirement option plan may place a heavy financial burden on the employer and the affected retirement system, negating any positive benefit offered by the DROP if the DROP is not carefully planned to be economically favorable to the employer and revenue neutral for the affected retirement system while remaining attractive to the targeted employee.

(b) (1) The governing bodies of municipalities participating in policemen’s and firemen’s pension and relief funds pursuant to sections sixteen through twenty-eight of this article, are authorized to voluntarily offer deferred retirement option plans. A participating municipality may design and establish a DROP to best meet the municipality’s needs so long as the DROP complies with federal law, the requirements set forth in this section and approved by the Municipal Pensions Oversight Board.

(2) Prior to approval by the Municipal Pensions Oversight Board, a municipality shall submit a proposed DROP to the board for analysis by the qualified actuary retained or employed by the board. The actuary shall examine the plan and, in light of the elements of the DROP and the actuarial projections of the impact of the DROP on the affected pension and relief fund, advise the board of the anticipated impact on the Municipal Pension and Relief Fund. The board shall seek to approve only those DROP plans which, in the best judgement of the actuary, are designed to have no negative impact on the member’s pension and relief fund. The submitting municipality shall reimburse the board for actuarial costs of analyzing the plan.

(c) To be eligible to enter a DROP plan, the member of the policemen’s or firemen’s pension and relief fund must be in
active employment and an active member of his or her
pension and relief fund for at least six months beyond
attaining eligibility for regular retirement as provided in
section twenty-five of this article and have received a
satisfactory performance evaluation within the prior twelve
months. The member may defer retirement for a period of not
less than one nor more than five years but must complete the
period by age sixty-five. The member may elect to commence
participation from July 1, 2011, through June 30, 2016.
Members not meeting the eligibility requirement by June 30,
2016, are not eligible to participate in the DROP.

(d)(1) During the DROP participation period, the member
shall continue with full-time employment in a covered
position subject to the municipality’s requirements. A
member’s retirement benefits are calculated as of the DROP
participation date and a member may not accumulate
additional retirement benefits during the DROP participa-
tion period. Upon beginning participation, the member is
treated as retired and receiving benefits for purposes of the
retirement system and for purposes of distributing premium
tax proceeds through the Municipal Pensions Security Fund.
During the participation period, the employer shall continue
to make regular contributions to the employee’s pension and
relief fund.

(2) Benefit payments are accumulated for the member in
the pension and relief fund in an accumulation account
during the DROP participation period. At the end of the
participation period, the amount in the accumulation
account owing to the member, plus interest not to exceed
three and one-half percent, shall be paid to the member in a
lump sum. Monthly retirement payments shall be paid
directly to the member starting in the month following the
end of the DROP participation period.

(3) A member may voluntarily terminate DROP participa-
tion early with sixty days advance notice. Deferred accumu-
lated benefits will be paid with no interest for the DROP
period and benefits payments will commence following the
early termination date. Covered employment must terminate
before benefit distributions may be made. Should the employer wish to terminate the employment during the participation period, the member may terminate participation with thirty days notice and the deferred accumulation balance shall be paid with interest according to the DROP design; *Provided*, That if the employee is terminated for cause during the participation period, the member may terminate participation with thirty days notice and the deferred accumulation balance shall be paid without interest according to the DROP design.

(4) A member who is unable to continue working because of disability shall cease participation the first day of the month following notice of disability to the employer and the pension and relief fund. The accumulation account balance shall be paid to the member with no interest. No additional benefits are due the member on account of the disability.

(5) In the event of death of a member during DROP participation, the accumulation account of the member through the member's date of death is payable to the member's beneficiary or beneficiaries, with interest according to DROP design.

(6) A member entering the DROP is contractually obligated to terminate employment at the end of the DROP participation period. Failure to terminate voluntarily results in termination of employment, for cause, except that a member who continues to work with the consent of the employer past the DROP participation period shall have all benefits frozen during the extension period and no additional benefit accumulates. During the period of time the member continues to work beyond the end of the DROP participation period with the consent of the employer, the employer shall continue to make regular contributions to the employee's pension and relief fund. Regular retirement benefits will commence the month following eventual employment termination or death. The member's accumulation account balance is frozen in value following the end of the DROP participation period.
(e) Pursuant to section twenty-three, article one, chapter four of this code, the oversight board shall annually report to the Legislature's Joint Committee on Pensions and Retirement on deferred retirement option plans submitted to the board for approval and the status of any DROP that has been approved, including any experienced impact on an affected pension and relief fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

Acting President of the Senate

Speaker of the House of Delegates

The within was approved this the 1st Day of April, 2011.

Governor
PRESENTED TO THE GOVERNOR

MAR 2 3 2011

Time

3:45 p.m.