West Virginia Legislature

2018 Regular Session

Enrolled

Senate Bill 425

By Senators Ferns, Cline, and Plymale

[Passed March 9, 2018; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

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BY SENATORS FERNS, CLINE, AND PLYMALE

[Passed March 9, 2018; in effect 90 days from passage]
AN ACT to amend and reenact §8-22-25a of the Code of West Virginia, 1931, as amended, relating to removing sunset dates upon which members of the policemen’s or firemen’s pension and relief fund are eligible for and elect to commence participation in a deferred retirement option plan.

Be it enacted by the Legislature of West Virginia:

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.

(a) A deferred retirement option plan (DROP) 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 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 DROP 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 §8-22-16 through §8-22-28 of this code, are authorized to voluntarily offer DROPs. 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 DROPs which, in the best judgment 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, 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 §8-22-25 of this code and have received a satisfactory performance evaluation within the prior 12 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 65. The member may elect to commence participation after July 1, 2011.

(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 participation 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 participation early with 60 days’ advance notice. Deferred accumulated 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 30 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 30 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 §4-1-23 of this code, the oversight board shall annually report to the
Legislature’s Joint Committee on Pensions and Retirement on DROPs 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

Vice-Chairman, House Committee

Originated in the Senate.

In effect 90 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 ........

Day of .................... 2018.

Governor
PRESENTED TO THE GOVERNOR

MAR 21 2018

Time 11:57am