

## WEST VIRGINIA CODE: §8-22A-17

### **§8-22A-17. Awards and benefits for disability — duty related; exception during early period.**

(a) Except as provided in §8-22A-9(a) of this code, any member who after the effective date of this article and during covered employment: (1) Has been or becomes totally disabled by injury, illness or disease; and (2) the disability is a result of an occupational risk or hazard inherent in or peculiar to the services required of members; or (3) the disability was incurred while performing police officer or firefighter functions during either scheduled work hours or at any other time; and (4) in the opinion of two physicians after medical examination, at least one of whom shall be named by the board, the member is by reason of the disability not only unable to perform his or her previous work as a police officer or firefighter but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work, is entitled to receive and shall be paid from the fund in monthly installments during the lifetime of the member or, if sooner, until the member attains normal retirement age or until the disability sooner terminates, the compensation under this section. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration.

(b) If the member is totally disabled, the member shall receive 90 percent of his or her average monthly compensation for months in which full compensation was received for the 12-month contributory period preceding the member's disability or the shorter period if the member has not worked 12 months.

(c) If the member remains totally disabled until attaining 65 years of age, the member shall then receive the retirement benefit provided in §8-22A-14 and §8-22A-15 of this code.

(d) The disability benefit payments will begin the first day of the month following termination of employment and receipt of the disability retirement application by the Consolidated Public Retirement Board.