WEST VIRGINIA CODE: §15-2-25B

§15-2-25b. Definitions.

As used in this article, unless the context clearly requires a different meaning:

(a) "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of section 415 of the Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(b) "Agency" means the West Virginia State Police.

(c) "Beneficiary" means a surviving spouse or other surviving beneficiary who is entitled to, or will be entitled to, an annuity or other benefit payable by the fund.

(d) "Board" means the West Virginia Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq*. of this code.

(e) "Dependent child" means any unmarried child or children born to or adopted by a member of the fund who is:

(1) Under the age of 18;

(2) After reaching 18 years of age, continues as a full-time student in an accredited high school, college, university, business or trade school, until the child or children reaches the age of 20 years; or

(3) Is financially dependent on the member by virtue of a permanent mental or physical disability upon evidence satisfactory to the board.

(f) "Dependent parent" means the member's parent or stepparent claimed as a dependent by the member for federal income tax purposes at the time of the member's death.

(g) "Employee" means any person regularly employed in the service of the agency as a law-enforcement officer before March 12, 1994, and who is eligible to participate in the fund.

(h) "Employer error" means an omission, misrepresentation or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required.

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(i) “Fund”, “plan” or “system” means the West Virginia State Police Death, Disability and Retirement Fund.

(j) “Law-enforcement officer” means an individual employed or otherwise engaged in either a public or private position which involves the rendition of services relating to enforcement of federal, state or local laws for the protection of public or private safety, including, but not limited to, positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers or any other law-enforcement position which requires certification, but excluding positions held by elected sheriffs or appointed chiefs of police whose duties are determined by the board to be purely administrative in nature.

(k) “Member” means any person who has contributions standing to his or her credit in the fund and who has not yet entered into retirement status.

(l) “Partially disabled” means an employee’s inability, on a probable permanent basis, to perform the essential duties of a law-enforcement officer by reason of any medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months, but which impairment does not preclude the employee from engaging in other types of nonlaw-enforcement employment.

(m) “Physical or mental impairment” means an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic techniques.

(n) “Plan year” means the 12-month period commencing on July 1 of any designated year and ending the following June 30.

(o) “Qualified public safety employee” means any employee of a participating state or political subdivision who provides police protection, fire-fighting services or emergency medical services for any area within the jurisdiction of the state or political subdivision, or such other meaning given to the term by section 72(t)(10)(B) of the Internal Revenue Code or by Treasury Regulation §1.401(a)-1(b)(2)(v) as they may be amended from time to time.

(p) “Retirant” or “retiree” means any former member who is receiving an annuity payable by the fund.

(q) “Surviving spouse” means the person to whom the member was legally married at the time of the member’s death and who survived the member.

(r) “Totally disabled” means an employee’s probable permanent inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. For purposes of this subsection, an employee is totally disabled only if his or her physical or mental impairments are so severe that he or she is not only unable to perform his or her previous work as an employee of the

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agency 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: (1) The work exists in the immediate area in which the employee lives; (2) a specific job vacancy exists; or (3) the employee would be hired if he or she applied for work.

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