WEST VIRGINIA CODE: §15-2-29

§15-2-29. Awards and benefits for disability incurred in performance of duty.

(a) Any member of the fund who has not yet entered retirement status on the basis of age and service and who becomes partially disabled by injury, illness or disease resulting from any occupational risk or hazard inherent in or peculiar to the services required of employees of the agency or incurred pursuant to or while the employee was engaged in the performance of his or her duties as an employee of the agency shall, if, in the opinion of the board, he or she is by reason of that cause probably permanently unable to perform adequately the duties required of him or her as an employee of the agency, but is able to engage in any other gainful employment in a field other than law enforcement, be retired from active service by the board. The member thereafter is entitled to receive annually from the fund in equal monthly installments during his or her lifetime; or until the disability eligibility sooner terminates, one or the other of two amounts, whichever is greater:

(1) An amount equal to five and one-half percent of the total salary which would have been earned during twenty-five years, or during actual service if more than twenty-five years in the fund, based on the average earnings of the retirant while employed as an employee of the agency; or

(2) The sum of $6,000.

(b) A retirant who is partially disabled under this article may not, while in receipt of benefits for partial disability, be employed as a law-enforcement officer: Provided, That a retirant retired on partial disability under this article may serve as an elected sheriff or appointed chief of police in the state without a loss of disability retirement benefits so long as the elected or appointed position is shown, to the satisfaction of the board, to require the performance of administrative duties and functions only, as opposed to the full range of duties of a law-enforcement officer.

(c) If any member not yet in retirement status on the basis of age and service is found by the board to be permanently and totally disabled as the result of a physical or mental impairment resulting from any occupational risk or hazard inherent in or peculiar to the services required of employees of the agency or incurred pursuant to or while the member was engaged in the performance of his or her duties as an employee of the agency, the member is entitled to receive annually and there shall be paid from the fund in equal monthly installments during his or her lifetime or until the disability eligibility sooner terminates, an amount equal to eight and one-half percent of the total salary which would have been earned by the employee during twenty-five years, or during actual service if more than twenty-five years of service in the fund, based on the average earnings of the retirant while employed as an employee of the agency: Provided, That in no event may the amount be less than $15,000 per annum, unless otherwise required by this article.

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(d) The superintendent may expend moneys from funds appropriated for the agency in payment of medical, surgical, laboratory, X-ray, hospital, ambulance and dental expenses and fees and reasonable costs and expenses incurred in the purchase of artificial limbs and other approved appliances which may be reasonably necessary for any member or disability retirant who has or becomes temporarily, permanently or totally disabled by injury, illness or disease resulting from any occupational risk or hazard inherent in or peculiar to the service required of employees of the agency or incurred pursuant to or while the member was or shall be engaged in the performance of duties as an employee of the agency. Whenever the superintendent determines that any disabled member or retirant is ineligible to receive any of the aforesaid benefits at public expense, the superintendent shall, at the request of the disabled member or retirant, refer the matter to the board for hearing and final decision. In no case will the compensation rendered to health care providers for medical and hospital services exceed the then current rate schedule approved by the West Virginia Insurance Commission.

(e) Any member awarded a disability benefit under the provisions of this section may receive retirement disability annuity payments on the day following the board's approval of his or her disability application. Upon termination of employment and receipt of properly executed forms from the agency and the member, the board shall process the member's disability retirement benefit and commence annuity payments as soon as administratively feasible.

(f) For the purposes of this section, the term "salary" does not include any compensation paid for overtime service.

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