WEST VIRGINIA CODE: §15-2A-10

§15-2A-10. Same -- Due to other causes.

(a) If any employee while in active service of the agency becomes partially or totally disabled on a probable permanent basis to the extent that the employee cannot adequately perform the duties required of an employee of the agency from any cause other than those set forth in the preceding section and not due to vicious habits, intemperance or willful misconduct on his or her part, the employee shall be retired by the board. There shall be paid annually to the retirant from the fund in equal monthly installments, commencing on the date the retirant is retired and continuing during the lifetime of the retirant or until the retirant attains the age of fifty-five; while in status of retirement an amount equal to one-half the base salary received by the retirant in the preceding full twelve-month period: Provided, That if the retirant had not been employed with the agency for twelve full months prior to the disability, the amount of monthly base salary shall be annualized for the purpose of determining the benefit.

(b) The first day of the month following the date in which the retirant attains age fifty-five, the retirant shall receive the benefit provided in section six of this article as it would apply to his or her final average salary based on earnings from the agency through the day immediately preceding his or her disability. The recalculation of benefit upon a retirant attaining age fifty-five shall be considered to be a retirement under the provisions of section six of this article for purposes of determining the amount of annual annuity adjustment and for all other purposes of this article.

(c) Disability benefit payments made pursuant to this section will begin the first day of the month following board approval and termination of employment or as ordered by a court of competent jurisdiction: Provided, That in no circumstance may the disability payments begin prior to termination of employment in order to avoid an in-service distribution.

WV Legislature