

# WEST VIRGINIA CODE: §8-22-24

## §8-22-24. Disability pensions.

(a) The monthly sum to be paid to each member eligible for disability received as a proximate result of service rendered in the performance of his or her duties under the provisions of §8-22-23(a) of this code is equal to 60 percent of the monthly salary being received by the member, at the time he or she is so disabled, or the sum of \$500 per month, whichever is greater: *Provided*, That the limitation provided in subsection (b) of this section is not exceeded.

(b) Effective for any member who becomes eligible for disability benefits on or after July 1, 1981, under the provisions of §8-22-23a of this code, as a proximate result of service rendered in the performance of the member's duties within such departments, the member's monthly disability payment as provided in subsection (a) of this section may not, when aggregated with the monthly amount of state workers' compensation, result in the disabled member receiving a total monthly income from the sources in excess of 100 percent of the basic compensation which is paid to members holding the same position which the member held within the department at the time of the member's disability. Lump sum payments of state workers' compensation benefits are not considered for purposes of this subsection unless the lump sum payments represent commuted values of monthly state workers' compensation benefits.

(c) Any member who has served on active duty with the armed forces of the United States as described in §8-22-27 of this code, whether prior or subsequent to becoming a member of a paid police or fire department covered by the provisions of this article, and who, on July 1, 1986, is receiving or thereafter receives a disability pension, shall receive in addition to the 60 percent or minimum \$500 authorized in subsection (a) of this section, one additional percent for each year served in active military duty, up to a maximum of four additional percent.

(d) Beginning on and after April 1, 1991, the monthly sum to be paid to a member who becomes eligible for total disability incurred not in the line of duty is the monthly benefit provided in subsection (a) of this section: *Provided*, That for any person receiving benefits under this subsection who is self-employed or employed by another, there shall be offset against the benefits the amount of \$1 for each \$3 of income derived from self-employment or employment by another: *Provided, however*, That a person receiving disability benefits must file a certified copy of his or her tax return on or before April 15 of each year to demonstrate either unemployment or income earned from self-employment or employment by another. If the retirant refuses or is unable to provide the certified copy of his or her tax return by April 15 for the previous year, the trustees of the policemen's pension and relief fund or firemen's pension and relief fund shall hold the member's monthly disability pension in abeyance until the retirant complies. If the retirant has completed an application for automatic extension of time to file U.S. individual tax return, a copy of the same must be submitted to the board.

Thereupon, the member's monthly disability pension shall continue to be paid. If the retirant then refuses or is unable to provide the certified copy of his or her tax return by October 15 for the previous year, the trustees of the policemen's pension and relief fund or firemen's pension and relief fund shall hold the member's monthly disability pension in abeyance until the retirant complies: *Provided further*, That there is no offset of benefit for any income derived from self-employment or employment by another when the annual total amount of the income is \$18,200 or less.

(e) The \$18,200 limit in subsection (d) of this section shall be automatically increased when the minimum wage, as provided in §21-5C-2 of this code, increases by the same percentage of the increase in the minimum wage.