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: *Provided, however*, That effective on or after July 1, 2015, if the member was granted disability as a result of service rendered in the performance of his or her duties under the provisions of §8-22-23a of this code and if the member at the time of the disablement was under the age of 50 and had 21 to 30 years of service, the member may after attaining the age of 50 petition the pension board of trustees of the policemen's pension or the pension board of trustees of the firemen's pension to begin receiving the retirement pension benefit the member is now eligible for in place of the disability pension benefit the member is currently receiving. Any change from a disability pension retirement benefit to a regular retirement pension benefit shall reset the supplemental benefit start date to the first day of July following the second anniversary of the commencement of the regular pension retirement benefit at or after age 50: *Provided further*, That nothing in this section shall allow a policemen's pension board of trustees or a firemen's pension board of trustees to change a previously awarded total disability incurred not in the line of duty to a total disability granted as a result of service rendered in the performance of his or her duties for the purpose of qualifying the member for a regular retirement at age 50.

(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 one hundred 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

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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: *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: *And provided further*, That beginning on or after July 1, 2026, a member who previously qualified for a total disability incurred not in the line of duty and who has attained the Social Security normal retirement age is no longer required to provide his or her tax return to the trustees of the policemen's pension and relief fund or the firemen's pension and relief fund in order to continue receiving the total disability incurred not in the line of duty.

(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.

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