WEST VIRGINIA CODE: §8-22A-17

§8-22A-17. Awards and benefits for disability — duty related; exception during early period.

(a) Any member who after the effective date of this article and during covered employment: (1) Has been or becomes totally or partially disabled by injury, illness or disease; and (2) the disability is a result of an occupational risk or hazard inherent in or peculiar to the services required of members; or (3) the disability was incurred while performing police officer or firefighter functions during either scheduled work hours or at any other time; and (4) in the opinion of two physicians after medical examination, at least one of whom shall be named by the board, the member is by reason of the disability unable to perform adequately his or her previous work as a police officer or firefighter, is entitled to receive and shall be paid from the fund in monthly installments the compensation under either subsection (b) or (c) of this section.

(b) If the member is totally disabled, the member shall receive 90 percent of his or her average full monthly compensation for the 12-month contributory period preceding the member’s disability award, or the shorter period if the member has not worked 12 months.

(c) If the member is partially disabled, the member shall receive 45 percent of his or her average full monthly compensation for the 12-month contributory period preceding the member's disability award, or the shorter period if the member has not worked 12 months. If the member remains partially disabled until attaining 60 years of age, the member shall then receive the retirement benefit provided in §8-22A-14 and §8-22A-15 of this code.

(d) If the member remains totally disabled until attaining 65 years of age, the member shall then receive the retirement benefit provided in §8-22A-14 and §8-22A-15 of this code.

(e) The disability benefit payments will begin the first day of the month following termination of employment and receipt of the disability retirement application by the Consolidated Public Retirement Board.

(f) For purposes of this article, unless a federal law or regulation or the context clearly requires a different meaning, "partially disabled" means a member’s inability to engage in the duties of a police officer or firefighter by reason of any medically determinable 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. A member may be determined partially disabled for the purposes of this article and maintain the ability to engage in other gainful employment which exists within the state, but which ability would not enable him or her to earn an amount at least equal to two thirds of the average annual compensation earned by all active members of this plan during the plan year ending as of the most recent June 30, as of which plan data has been assembled and used for the actuarial valuation of the plan.

WV Legislature