

HB 4182

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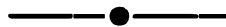
WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4182**

(By Delegate Spencer)



Passed March 13, 2010

In Effect Ninety Days From Passage

ENROLLED

FILED
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COMMITTEE SUBSTITUTE

FOR

OFFICE OF THE CLERK
WEST VIRGINIA
SECRETARY OF STATE

H. B. 4182

(BY DELEGATE SPENCER)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §16-5V-2, §16-5V-6, §16-5V-7, §16-5V-8, §16-5V-18, §16-5V-19, §16-5V-20 and §16-5V-21 of the Code of West Virginia, 1931, as amended, all relating to the emergency medical services retirement system act; modifying definitions; making technical changes; procedures for the transfer of contributions; clarifying actuarial valuation period; clarifying employer contribution amount; specifying procedures for the correction of errors; providing onset date for receipt of disability benefits; and providing for the termination of disability benefits when a retirant refuses to submit to a medical examination or provide certification from a physician of continued disability.

Be it enacted by the Legislature of West Virginia:

That §16-5V-2, §16-5V-6, §16-5V-7, §16-5V-8, §16-5V-18, §16-5V-19, §16-5V-20 and §16-5V-21 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 5V. EMERGENCY MEDICAL SERVICES
RETIREMENT SYSTEM ACT.**

§16-5V-2. Definitions.

1 As used in this article, unless a federal law or regulation
2 or the context clearly requires a different meaning:

3 (a) “Accrued benefit” means on behalf of any member
4 two and six-tenths percent per year of the member’s final
5 average salary for the first twenty years of credited service.
6 Additionally, two percent per year for twenty-one through
7 twenty-five years and one percent per year for twenty-six
8 through thirty years will be credited with a maximum benefit
9 of sixty-seven percent. A member’s accrued benefit may not
10 exceed the limits of Section 415 of the Internal Revenue
11 Code and is subject to the provisions of section twelve of this
12 article.

13 (1) The board may upon the recommendation of the
14 board’s actuary increase the employees’ contribution rate to
15 ten and five-tenths percent should the funding of the plan not
16 reach seventy percent funded by July 1, 2012. The board
17 shall decrease the contribution rate to eight and one-half
18 percent once the plan funding reaches the seventy percent
19 support objective as of any later actuarial valuation date.

20 (2) Upon reaching the seventy-five percent actuarial
21 funded level, as of an actuarial valuation date, the board shall
22 increase the two and six-tenths percent to two and three-
23 quarter percent for the first twenty years of credited service.
24 The maximum benefit will also be increased from sixty-seven
25 percent to seventy percent.

26 (b) “Accumulated contributions” means the sum of all
27 retirement contributions deducted from the compensation of

28 a member, or paid on his or her behalf as a result of covered
29 employment, together with regular interest on the deducted
30 amounts.

31 (c) “Active military duty” means full-time active duty
32 with any branch of the Armed Forces of the United States,
33 including service with the National Guard or reserve military
34 forces when the member has been called to active full-time
35 duty and has received no compensation during the period of
36 that duty from any board or employer other than the Armed
37 Forces.

38 (d) “Actuarial equivalent” means a benefit of equal value
39 computed upon the basis of the mortality table and interest
40 rates as set and adopted by the board in accordance with the
41 provisions of this article.

42 (e) “Annual compensation” means the wages paid to the
43 member during covered employment within the meaning of
44 Section 3401(a) of the Internal Revenue Code, but
45 determined without regard to any rules that limit the
46 remuneration included in wages based upon the nature or
47 location of employment or services performed during the
48 plan year plus amounts excluded under Section 414(h)(2) of
49 the Internal Revenue Code and less reimbursements or other
50 expense allowances, cash or noncash fringe benefits or both,
51 deferred compensation and welfare benefits. Annual
52 compensation for determining benefits during any
53 determination period may not exceed \$100,000 as adjusted
54 for cost-of-living in accordance with Section 401(a)(17)(B)
55 of the Internal Revenue Code.

56 (f) “Annual leave service” means accrued annual leave.

57 (g) “Annuity starting date” means the first day of the
58 month for which an annuity is payable after submission of a

59 retirement application. For purposes of this subsection, if
60 retirement income payments commence after the normal
61 retirement age, “retirement” means the first day of the month
62 following or coincident with the latter of the last day the
63 member worked in covered employment or the member’s
64 normal retirement age and after completing proper written
65 application for “retirement” on an application supplied by the
66 board.

67 (h) “Board” means the Consolidated Public Retirement
68 Board.

69 (i) “County commission or political subdivision” has the
70 meaning ascribed to it in this code.

71 (j) “Covered employment” means either: (1)
72 Employment as a full-time emergency medical technician,
73 emergency medical technician/paramedic or emergency
74 medical services/registered nurse and the active performance
75 of the duties required of emergency medical services officers;
76 or (2) the period of time during which active duties are not
77 performed but disability benefits are received under this
78 article; or (3) concurrent employment by an emergency
79 medical services officer in a job or jobs in addition to his or
80 her employment as an emergency medical services officer
81 where the secondary employment requires the emergency
82 medical services officer to be a member of another retirement
83 system which is administered by the Consolidated Public
84 Retirement Board pursuant to this code: *Provided*, That the
85 emergency medical services officer contributes to the fund
86 created in this article the amount specified as the member’s
87 contribution in section eight of this article.

88 (k) “Credited service” means the sum of a member’s
89 years of service, active military duty, disability service and
90 accrued annual and sick leave service.

91 (l) “Dependent child” means either:

92 (1) An unmarried person under age eighteen who is:

93 (A) A natural child of the member;

94 (B) A legally adopted child of the member;

95 (C) A child who at the time of the member’s death was
96 living with the member while the member was an adopting
97 parent during any period of probation; or

98 (D) A stepchild of the member residing in the member’s
99 household at the time of the member’s death; or

100 (2) Any unmarried child under age twenty-three:

101 (A) Who is enrolled as a full-time student in an
102 accredited college or university;

103 (B) Who was claimed as a dependent by the member for
104 federal income tax purposes at the time of member’s death;
105 and

106 (C) Whose relationship with the member is described in
107 paragraph (A), (B) or (C), subdivision (1) of this subsection.

108 (m) “Dependent parent” means the father or mother of
109 the member who was claimed as a dependent by the member
110 for federal income tax purposes at the time of the member’s
111 death.

112 (n) “Disability service” means service received by a
113 member, expressed in whole years, fractions thereof or both,
114 equal to one half of the whole years, fractions thereof, or
115 both, during which time a member receives disability benefits
116 under this article.

117 (o) "Early retirement age" means age forty-five or over
118 and completion of twenty years of contributory service.

119 (p) "Effective date" means January 1, 2008.

120 (q) "Emergency medical services officer" means an
121 individual employed by the state, county or other political
122 subdivision as a medical professional who is qualified to
123 respond to medical emergencies, aids the sick and injured and
124 arranges or transports to medical facilities, as defined by the
125 West Virginia Office of Emergency Medical Services. This
126 definition is construed to include employed ambulance
127 providers and other services such as law enforcement, rescue
128 or fire department personnel who primarily perform these
129 functions and are not provided any other credited service
130 benefits or retirement plans. These persons may hold the
131 rank of emergency medical technician/basic, emergency
132 medical technician/paramedic, emergency medical
133 services/registered nurse, or others as defined by the West
134 Virginia Office of Emergency Medical Services and the
135 Consolidated Public Retirement Board.

136 (r) "Employer error" means an omission,
137 misrepresentation or violation of relevant provisions of the
138 West Virginia Code or of the West Virginia Code of State
139 Rules or the relevant provisions of both the West Virginia
140 Code and of the West Virginia Code of State Rules by the
141 participating public employer that has resulted in an
142 underpayment or overpayment of contributions required. A
143 deliberate act contrary to the provisions of this article by a
144 participating public employer does not constitute employer
145 error.

146 (s) "Final average salary" means the average of the
147 highest annual compensation received for covered
148 employment by the member during any five consecutive plan

149 years within the member's last ten years of service while
150 employed, prior to any disability payment. If the member did
151 not have annual compensation for the five full plan years
152 preceding the member's attainment of normal retirement age
153 and during that period the member received disability
154 benefits under this article, then "final average salary" means
155 the average of the monthly salary determined paid to the
156 member during that period as determined under section
157 twenty-two of this article multiplied by twelve. "Final
158 average salary" does not include any lump sum payment for
159 unused, accrued leave of any kind or character.

160 (t) "Full-time employment" means permanent
161 employment of an employee by a participating public
162 employer in a position which normally requires twelve
163 months per year service and requires at least one thousand
164 forty hours per year service in that position.

165 (u) "Fund" means the West Virginia Emergency Medical
166 Services Retirement Fund created by this article.

167 (v) "Hour of service" means:

168 (1) Each hour for which a member is paid or entitled to
169 payment for covered employment during which time active
170 duties are performed. These hours shall be credited to the
171 member for the plan year in which the duties are performed;
172 and

173 (2) Each hour for which a member is paid or entitled to
174 payment for covered employment during a plan year but
175 where no duties are performed due to vacation, holiday,
176 illness, incapacity including disability, layoff, jury duty,
177 military duty, leave of absence or any combination thereof
178 and without regard to whether the employment relationship
179 has terminated. Hours under this subdivision shall be

180 calculated and credited pursuant to West Virginia Division of
181 Labor rules. A member will not be credited with any hours
182 of service for any period of time he or she is receiving
183 benefits under section nineteen or twenty of this article; and

184 (3) Each hour for which back pay is either awarded or
185 agreed to be paid by the employing county commission or
186 political subdivision, irrespective of mitigation of damages.
187 The same hours of service shall not be credited both under
188 subdivision (1) or (2) of this subsection and under this
189 subdivision. Hours under this paragraph shall be credited to
190 the member for the plan year or years to which the award or
191 agreement pertains, rather than the plan year in which the
192 award, agreement or payment is made.

193 (w) "Member" means a person first hired as an
194 emergency medical services officer by an employer which is
195 a participating public employer of the Public Employees
196 Retirement System or the Emergency Medical Services
197 Retirement System after the effective date of this article, as
198 defined in subsection (p) of this section, or an emergency
199 medical services officer of an employer which is a
200 participating public employer of the Public Employees
201 Retirement System first hired prior to the effective date and
202 who elects to become a member pursuant to this article. A
203 member shall remain a member until the benefits to which he
204 or she is entitled under this article are paid or forfeited.

205 (x) "Monthly salary" means the W-2 reportable
206 compensation received by a member during the month.

207 (y) "Normal form" means a monthly annuity which is one
208 twelfth of the amount of the member's accrued benefit which
209 is payable for the member's life. If the member dies before
210 the sum of the payments he or she receives equals his or her
211 accumulated contributions on the annuity starting date, the

212 named beneficiary shall receive in one lump sum the
213 difference between the accumulated contributions at the
214 annuity starting date and the total of the retirement income
215 payments made to the member.

216 (z) “Normal retirement age” means the first to occur of
217 the following:

218 (1) Attainment of age fifty years and the completion of
219 twenty or more years of regular contributory service,
220 excluding active military duty, disability service and accrued
221 annual and sick leave service;

222 (2) While still in covered employment, attainment of at
223 least age fifty years and when the sum of current age plus
224 regular contributory years of service equals or exceeds
225 seventy years;

226 (3) While still in covered employment, attainment of at
227 least age sixty years and completion of ten years of regular
228 contributory service; or

229 (4) Attainment of age sixty-two years and completion of
230 five or more years of regular contributory service.

231 (aa) “Participating public employer” means any county
232 commission or political subdivision in the state which has
233 elected to cover its emergency medical services officers, as
234 defined in this article, under the West Virginia Emergency
235 Medical Services Retirement System.

236 (bb) “Political subdivision” means a county, city or town
237 in the state; any separate corporation or instrumentality
238 established by one or more counties, cities or towns, as
239 permitted by law; any corporation or instrumentality
240 supported in most part by counties, cities or towns; and any

241 public corporation charged by law with the performance of a
242 governmental function and whose jurisdiction is coextensive
243 with one or more counties, cities or towns: *Provided*, That
244 any public corporation established under section four, article
245 fifteen, chapter seven of this code is considered a political
246 subdivision solely for the purposes of this article.

247 (cc) “Plan” means the West Virginia Emergency Medical
248 Services Retirement System established by this article.

249 (dd) “Plan year” means the twelve-month period
250 commencing on January 1 of any designated year and ending
251 the following December 31.

252 (ee) “Public Employees Retirement System” means the
253 West Virginia Public Employee’s Retirement System created
254 by West Virginia Code.

255 (ff) “Regular interest” means the rate or rates of interest
256 per annum, compounded annually, as the board adopts in
257 accordance with the provisions of this article.

258 (gg) “Required beginning date” means April 1 of the
259 calendar year following the later of: (1) The calendar year in
260 which the member attains age seventy and one-half; or (2) the
261 calendar year in which he or she retires or otherwise
262 separates from covered employment.

263 (hh) “Retirant” means any member who commences an
264 annuity payable by the plan.

265 (ii) “Retirement income payments” means the monthly
266 retirement income payments payable under the plan.

267 (jj) “Spouse” means the person to whom the member is
268 legally married on the annuity starting date.

269 (kk) “Surviving spouse” means the person to whom the
270 member was legally married at the time of the member’s
271 death and who survived the member.

272 (ll) “Totally disabled” means a member’s inability to
273 engage in substantial gainful activity by reason of any
274 medically determined physical or mental impairment that can
275 be expected to result in death or that has lasted or can be
276 expected to last for a continuous period of not less than
277 twelve months.

278 For purposes of this subsection:

279 (1) A member is totally disabled only if his or her
280 physical or mental impairment or impairments is so severe
281 that he or she is not only unable to perform his or her
282 previous work as an emergency medical services officer but
283 also cannot, considering his or her age, education and work
284 experience, engage in any other kind of substantial gainful
285 employment which exists in the state regardless of whether:
286 (A) The work exists in the immediate area in which the
287 member lives; (B) a specific job vacancy exists; or (C) the
288 member would be hired if he or she applied for work. For
289 purposes of this article, substantial gainful employment is the
290 same definition as used by the United States Social Security
291 Administration.

292 (2) “Physical or mental impairment” is an impairment
293 that results from an anatomical, physiological or
294 psychological abnormality that is demonstrated by medically
295 accepted clinical and laboratory diagnostic techniques. The
296 board may require submission of a member’s annual tax
297 return for purposes of monitoring the earnings limitation.

298 (mm) “Year of service” means a member shall, except in
299 his or her first and last years of covered employment, be

300 credited with years of service credit based upon the hours of
301 service performed as covered employment and credited to the
302 member during the plan year based upon the following
303 schedule:

304 **Hours of Service Year of Service Credited.**

305 Less than 500 0

306 500 to 999 1/3

307 1,000 to 1,4992/3

308 1,500 or more 1

309 During a member's first and last years of covered
310 employment, the member shall be credited with one twelfth
311 of a year of service for each month during the plan year in
312 which the member is credited with an hour of service for
313 which contributions were received by the fund. A member is
314 not entitled to credit for years of service for any time period
315 during which he or she received disability payments under
316 section nineteen or twenty of this article. Except as
317 specifically excluded, years of service include covered
318 employment prior to the effective date.

319 Years of service which are credited to a member prior to
320 his or her receipt of accumulated contributions upon
321 termination of employment pursuant to section eighteen of
322 this article or section thirty, article ten, chapter five of this
323 code, shall be disregarded for all purposes under this plan
324 unless the member repays the accumulated contributions with
325 interest pursuant to section eighteen of this article or has prior
326 to the effective date made the repayment pursuant to section
327 eighteen, article ten, chapter five of this code.

§16-5V-6. Members.

1 (a) Any emergency medical services officer first
2 employed by a county or political subdivision in covered
3 employment after the effective date of this article shall be a
4 member of this retirement plan as a condition of employment
5 and upon membership does not qualify for membership in
6 any other retirement system administered by the board, so
7 long as he or she remains employed in covered employment.

8 (b) Any emergency medical services officer employed in
9 covered employment by an employer which is currently a
10 participating public employer of the Public Employees
11 Retirement System shall notify in writing both the county
12 commission in the county or officials in the political
13 subdivision in which he or she is employed and the board of
14 his or her desire to become a member of the plan by
15 December 31, 2007. Any emergency medical services officer
16 who elects to become a member of the plan ceases to be a
17 member or have any credit for covered employment in any
18 other retirement system administered by the board and shall
19 continue to be ineligible for membership in any other
20 retirement system administered by the board so long as the
21 emergency medical services officer remains employed in
22 covered employment by an employer which is currently a
23 participating public employer of this plan: *Provided*, That
24 any emergency medical services officer who does not
25 affirmatively elect to become a member of the plan continues
26 to be eligible for any other retirement system as is, from time
27 to time, offered to other county employees but is ineligible
28 for this plan regardless of any subsequent termination of
29 employment and rehire.

30 (c) Any emergency medical services officer who was
31 employed as an emergency medical services officer prior to
32 the effective date, but was not employed on the effective date

33 of this article, shall become a member upon rehire as an
34 emergency medical services officer. For purposes of this
35 section, the member's years of service and credited service
36 prior to the effective date shall not be counted for any
37 purposes under this plan unless the emergency medical
38 services officer has not received the return of his or her
39 accumulated contributions in the Public Employees
40 Retirement System pursuant to section thirty, article ten,
41 chapter five of this code. The member may request in
42 writing to have his or her accumulated contributions and
43 employer contributions from covered employment in the
44 Public Employees Retirement System transferred to the plan.
45 If the conditions of this subsection are met, all years of the
46 emergency medical services officer's covered employment
47 shall be counted as years of service for the purposes of this
48 article.

49 (d) Any emergency medical services officer employed in
50 covered employment on the effective date of this article who
51 has timely elected to transfer into this plan as provided in
52 subsection (b) of this section shall be given credited service
53 at the time of transfer for all credited service then standing to
54 the emergency medical services officer's service credit in the
55 Public Employees Retirement System regardless of whether
56 the credited service (as that term is defined in section two,
57 article ten, chapter five of this code) was earned as an
58 emergency medical services officer. All credited service
59 standing to the transferring emergency medical services
60 officer's credit in the Public Employees Retirement System
61 at the time of transfer into this plan shall be transferred into
62 the plan created by this article and the transferring emergency
63 medical services officer shall be given the same credit for the
64 purposes of this article for all service transferred from the
65 Public Employees Retirement System as that transferring
66 emergency medical services officer would have received
67 from the Public Employees Retirement System as if the

68 transfer had not occurred. In connection with each
69 transferring emergency medical services officer receiving
70 credit for prior employment as provided in this subsection, a
71 transfer from the Public Employees Retirement System to
72 this plan shall be made pursuant to the procedures described
73 in this article: *Provided*, That any member of this plan who
74 has elected to transfer from the Public Employees Retirement
75 System into this plan pursuant to subsection (b) of this
76 section may not, after having transferred into and becoming
77 an active member of this plan, reinstate to his or her credit in
78 this plan any service credit relating to periods in which the
79 member was not in covered employment as an emergency
80 medical services officer and which service was withdrawn
81 from the Public Employees Retirement System prior to his or
82 her elective transfer into this plan.

83 (e) Once made, the election made under this section is
84 irrevocable. All emergency medical services officers
85 employed by an employer which is a participating public
86 employer of the Public Employees Retirement System after
87 the effective date and emergency medical services officers
88 electing to become members as described in this section shall
89 be members as a condition of employment and shall make the
90 contributions required by this article.

91 (f) Notwithstanding any other provisions of this article,
92 any individual who is a leased employee is not eligible to
93 participate in the plan. For purposes of this plan, a “leased
94 employee” means any individual who performs services as an
95 independent contractor or pursuant to an agreement with an
96 employee leasing organization or similar organization. If a
97 question arises regarding the status of an individual as a
98 leased employee, the board has final power to decide the
99 question.

§16-5V-7. Creation of Fund; investments; actuarial valuations.

1 (a) There is hereby created the “West Virginia
2 Emergency Medical Services Retirement Fund” for the
3 benefit of the members of the retirement system created
4 pursuant to this article and the dependents of any deceased or
5 retired member of the system.

6 (b) All moneys paid into and accumulated in the fund,
7 except amounts designated by the board for payment of
8 benefits as provided in this article, shall be held in trust and
9 invested in the consolidated pensions fund administered by
10 the West Virginia Investment Management Board as
11 provided by law.

12 (c) The board shall employ a competent actuary or
13 actuarial firm to prepare an actuarial valuation of the assets
14 and liabilities of the fund. The actuarial valuation period
15 shall coincide with the fiscal year of the state.

**§16-5V-8. Members’ contributions; employer contributions;
correction of errors.**

1 (a) There shall be deducted from the monthly salary of
2 each member and paid into the fund an amount equal to eight
3 and one-half percent of his or her monthly salary. An
4 additional amount shall be paid to the fund by the county
5 commission or political subdivision in which the member is
6 employed in covered employment in an amount determined
7 by the board: *Provided*, That in no year may the total of the
8 employer contributions provided in this section, to be paid by
9 the county commission or political subdivision, exceed ten
10 and one-half percent of the total payroll for the members in
11 the employ of the county commission or political
12 subdivision.

13 (b) Any active member who has concurrent employment
14 in an additional job or jobs and the additional employment

15 requires the emergency medical services officer to be a
16 member of another retirement system which is administered
17 by the Consolidated Public Retirement Board pursuant to
18 article ten-d, chapter five of this code shall contribute to the
19 fund the sum of eight and one-half percent of his or her
20 monthly salary earned as an emergency medical services
21 officer as well as the sum of eight and one-half percent of his
22 or her monthly salary earned from any additional
23 employment which additional employment requires the
24 emergency medical services officer to be a member of
25 another retirement system which is administered by the
26 Consolidated Public Retirement Board pursuant to article ten-
27 d, chapter five of this code. An additional percent of the
28 monthly salary of each member shall be paid to the fund by
29 the concurrent employer by which the member is employed
30 in an amount determined by the board: *Provided*, That in no
31 year may the total of the employer contributions provided in
32 this section, to be paid by the concurrent employer, exceed
33 ten and one-half percent of the payroll for the concurrent
34 member employees.

35 (c) All required deposits shall be remitted to the board no
36 later than fifteen days following the end of the calendar
37 month for which the deposits are required. If the board upon
38 the recommendation of the board actuary finds that the
39 benefits provided by this article can be actuarially funded
40 with a lesser contribution, then the board shall reduce the
41 required member and employer contributions proportionally.
42 Any county commission or political subdivision which fails
43 to make any payment due the Emergency Medical Services
44 Retirement Fund by the fifteenth day following the end of
45 each calendar month in which contributions are due may be
46 required to pay the actuarial rate of interest lost on the total
47 amount owed for each day the payment is delinquent.
48 Accrual of the loss of earnings owed by the delinquent
49 county commission or political subdivision commences after

50 the fifteenth day following the end of the calendar month in
51 which contributions are due and continues until receipt of the
52 delinquent amount. Interest compounds daily and the
53 minimum surcharge is \$50.

54 (d) If any change or employer error in the records of any
55 participating public employer or the retirement system results
56 in any member receiving from the system more or less than
57 he or she would have been entitled to receive had the records
58 been correct, the board shall correct the error and as far as is
59 practicable shall adjust the payment of the benefit in a
60 manner that the actuarial equivalent of the benefit to which
61 the member was correctly entitled shall be paid. Any
62 employer error resulting in an underpayment to the retirement
63 system may be corrected by the member remitting the
64 required employee contribution and the participating public
65 employer remitting the required employer contribution.
66 Interest shall accumulate in accordance with the Legislative
67 Rule 162 CSR 7 retirement board reinstatement interest, and
68 any accumulating interest owed on the employee and
69 employer contributions resulting from the employer error
70 shall be the responsibility of the participating public
71 employer. The participating public employer may remit total
72 payment and the employee reimburse the participating public
73 employer through payroll deduction over a period equivalent
74 to the time period during which the employer error occurred.

**§16-5V-18. Refunds to certain members upon discharge or
resignation; deferred retirement; forfeitures.**

1 (a) Any member who terminates covered employment
2 and is not immediately eligible to receive disability or
3 retirement income benefits under this article is, by written
4 request filed with the board, entitled to receive from the fund
5 the member's accumulated contributions. Except as provided
6 in subsection (b) of this section, upon withdrawal, the

7 member shall forfeit his or her accrued benefit and cease to
8 be a member.

9 (b) Any member who ceases employment in covered
10 employment and active participation in this plan and who
11 thereafter becomes reemployed in covered employment may
12 not receive any credited service for any prior withdrawn
13 accumulated contributions from either this plan or the Public
14 Employees Retirement System unless following his or her
15 return to covered employment and active participation in this
16 plan, the member redeposits in the fund the amount of the
17 accumulated contributions withdrawn from previous covered
18 employment, together with interest on the accumulated
19 contributions at the rate determined by the board from the
20 date of withdrawal to the date of redeposit. Upon repayment
21 he or she shall receive the same credit on account of his or
22 her former covered employment as if no refund had been
23 made.

24 The repayment authorized by this subsection shall be
25 made in a lump sum within sixty months of the emergency
26 medical services officer's reemployment in covered
27 employment or, if later, within sixty months of the effective
28 date of this article.

29 (c) A member of this plan who has elected to transfer
30 from the Public Employees Retirement System into this plan
31 pursuant to subsection (b), section six of this article may not,
32 after having transferred into and become an active member of
33 this plan, reinstate to his or her credit in this plan any service
34 credit relating to periods of nonemergency medical services
35 officer service withdrawn from the Public Employees
36 Retirement System prior to his or her elective transfer into
37 this plan.

38 (d) Every member who completes sixty months of
39 covered employment is eligible, upon cessation of covered

40 employment, to either withdraw his or her accumulated
41 contributions in accordance with this section or to choose not
42 to withdraw his or her accumulated contribution and to
43 receive retirement income payments upon attaining early or
44 normal retirement age.

45 (e) Notwithstanding any other provision of this article,
46 forfeitures under the plan may not be applied to increase the
47 benefits any member would otherwise receive under the plan.

§16-5V-19. Awards and benefits for disability -- Duty related.

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

15 (b) If the member is totally disabled, the member shall
16 receive ninety percent of his or her average full monthly
17 compensation for the twelve-month period preceding the
18 member's disability or the shorter period if the member has
19 not worked twelve months.

20 (c) If the member remains totally disabled until attaining
21 sixty-five years of age, the member shall then receive the
22 retirement benefit provided in sections sixteen and seventeen
23 of this article.

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

§16-5V-20. Same -- Due to other causes.

1 (a) Any member who after the effective date of this
2 article and during covered employment: (1) Has been or
3 becomes totally disabled from any cause other than those set
4 forth in section nineteen of this article and not due to vicious
5 habits, intemperance or willful misconduct on his or her part;
6 and (2) in the opinion of two physicians after medical
7 examination, one of whom shall be named by the board, he
8 or she is by reason of the disability unable to perform
9 adequately the duties required of an emergency medical
10 services officer, is entitled to receive and shall be paid from
11 the fund in monthly installments, the compensation set forth
12 in, either subsection (b) or (c) of this section.

13 (b) If the member is totally disabled, he or she shall
14 receive sixty-six and two-thirds percent of his or her average
15 monthly compensation for the twelve-month period
16 preceding the disability, or the shorter period, if the member
17 has not worked twelve months.

18 (c) If the member remains totally disabled until attaining
19 sixty years of age, then the member shall receive the
20 retirement benefit provided in sections sixteen and seventeen
21 of this article.

22 (d) The board shall propose legislative rules for
23 promulgation in accordance with the provisions of article
24 three, chapter twenty-nine-a of this code concerning member
25 disability payments so as to ensure that the payments do not
26 exceed one hundred percent of the average current salary for
27 the position last held by the member.

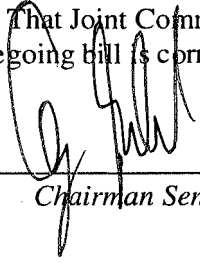
28 (e) The disability benefit payments will begin the first
29 day of the month following termination of employment and
30 receipt of the disability retirement application by the
31 Consolidated Public Retirement Board: *Provided*, That no
32 member may receive disability benefit payments set forth in
33 this section before January 1, 2011.

§16-5V-21. Same -- Physical examinations; termination of disability.

1 (a) The board may require any member who has applied
2 for or is receiving disability benefits under this article to
3 submit to a physical examination, mental examination or
4 both, by a physician or physicians selected or approved by
5 the board and may cause all costs incident to the examination
6 and approved by the board to be paid from the fund. The
7 costs may include hospital, laboratory, X-ray, medical and
8 physicians' fees. A report of the findings of any physician
9 shall be submitted in writing to the board for its
10 consideration. If, from the report, independent information,
11 or from the report and any hearing on the report, the board is
12 of the opinion and finds that: (1) The member has become
13 reemployed as an emergency medical services officer; (2) a
14 physician who has examined the member has found that
15 considering the opportunities for emergency medical services
16 in West Virginia, the member could be so employed as an
17 emergency medical services officer; or (3) other facts exist to
18 demonstrate that the member is no longer totally disabled,
19 then the disability benefits shall cease. Benefits shall cease
20 once the member has been found to be no longer totally
21 disabled. The board shall require annual recertification.

22 (b) If a retirant refuses to submit to a medical examination
23 or submit a statement by his or her physician certifying
24 continued disability in any period, his or her disability annuity
25 may be discontinued by the board until the retirant complies. If
26 the refusal continues for one year, all the retirant's rights in and
27 to the annuity may be revoked by the board.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



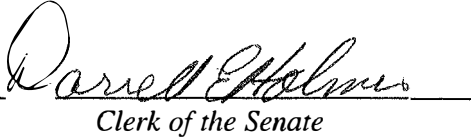
Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

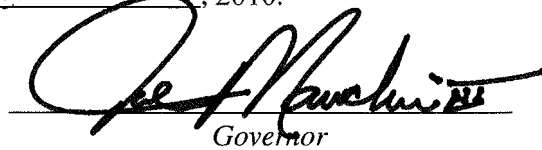


President of the Senate



Speaker of the House of Delegates

The within was approved this the 26th
day of March, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 2 5 2010

Time 10:00am