WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4182

(By Delegate Spencer)

Passed March 13, 2010

In Effect Ninety Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4182

(BY DELEGATE SPENCER)

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

AN ACT to amend and reenact §16-SV-2, §16-SV-6, §16-SV-7, §16-SV-8, §16-SV-18, §16-SV-19, §16-SV-20 and §16-SV-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.

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

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

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

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

(b) “Accumulated contributions” means the sum of all retirement contributions deducted from the compensation of
a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

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

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

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

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a
For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member's normal retirement age and after completing proper written application for "retirement" on an application supplied by the board.

(h) "Board" means the Consolidated Public Retirement Board.

(i) "County commission or political subdivision" has the meaning ascribed to it in this code.

(j) "Covered employment" means either: (1) Employment as a full-time emergency medical technician, emergency medical technician/paramedic or emergency medical services/registered nurse and the active performance of the duties required of emergency medical services officers; or (2) the period of time during which active duties are not performed but disability benefits are received under this article; or (3) concurrent employment by an emergency medical services officer in a job or jobs in addition to his or her employment as an emergency medical services officer where the secondary employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: Provided, That the emergency medical services officer contributes to the fund created in this article the amount specified as the member's contribution in section eight of this article.

(k) "Credited service" means the sum of a member's years of service, active military duty, disability service and accrued annual and sick leave service.
(l) “Dependent child” means either:

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

(A) A natural child of the member;

(B) A legally adopted child of the member;

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

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

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

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

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

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

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

(n) “Disability service” means service received by a member, expressed in whole years, fractions thereof or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.
(o) "Early retirement age" means age forty-five or over and completion of twenty years of contributory service.

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

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

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

(s) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan...
years within the member’s last ten years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member’s attainment of normal retirement age and during that period the member received disability benefits under this article, then “final average salary” means the average of the monthly salary determined paid to the member during that period as determined under section twenty-two of this article multiplied by twelve. “Final average salary” does not include any lump sum payment for unused, accrued leave of any kind or character.

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

(u) “Fund” means the West Virginia Emergency Medical Services Retirement Fund created by this article.

(v) “Hour of service” means:

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

(2) Each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be
calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under section nineteen or twenty of this article; and

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

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

(x) “Monthly salary” means the W-2 reportable compensation received by a member during the month.

(y) “Normal form” means a monthly annuity which is one twelfth of the amount of the member’s accrued benefit which is payable for the member’s life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the
named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

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

1. Attainment of age fifty years and the completion of twenty or more years of regular contributory service, excluding active military duty, disability service and accrued annual and sick leave service;

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

3. While still in covered employment, attainment of at least age sixty years and completion of ten years of regular contributory service; or

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

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

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

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

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

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

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

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

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

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

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

(jj) “Spouse” means the person to whom the member is
legally married on the annuity starting date.
(kk) "Surviving spouse" means the person to whom the member was legally married at the time of the member's death and who survived the member.

(II) "Totally disabled" means a member's inability to engage in substantial gainful activity by reason of any medically determined 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 twelve months.

For purposes of this subsection:

(1) A member is totally disabled only if his or her physical or mental impairment or impairments is so severe that he or she is not only unable to perform his or her previous work as an emergency medical services officer but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether:

(A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work. For purposes of this article, substantial gainful employment is the same definition as used by the United States Social Security Administration.

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

(mm) "Year of service" means a member shall, except in 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 1,499 ............................ 2/3

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.

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

(b) Any emergency medical services officer employed in covered employment by an employer which is currently a participating public employer of the Public Employees Retirement System shall notify in writing both the county commission in the county or officials in the political subdivision in which he or she is employed and the board of his or her desire to become a member of the plan by December 31, 2007. Any emergency medical services officer who elects to become a member of the plan ceases to be a member or have any credit for covered employment in any other retirement system administered by the board and shall continue to be ineligible for membership in any other retirement system administered by the board so long as the emergency medical services officer remains employed in covered employment by an employer which is currently a participating public employer of this plan: Provided, That any emergency medical services officer who does not affirmatively elect to become a member of the plan continues to be eligible for any other retirement system as is, from time to time, offered to other county employees but is ineligible for this plan regardless of any subsequent termination of employment and rehire.

(c) Any emergency medical services officer who was employed as an emergency medical services officer prior to the effective date, but was not employed on the effective date
of this article, shall become a member upon rehire as an emergency medical services officer. For purposes of this section, the member’s years of service and credited service prior to the effective date shall not be counted for any purposes under this plan unless the emergency medical services officer has not received the return of his or her accumulated contributions in the Public Employees Retirement System pursuant to section thirty, article ten, chapter five of this code. The member may request in writing to have his or her accumulated contributions and employer contributions from covered employment in the Public Employees Retirement System transferred to the plan. If the conditions of this subsection are met, all years of the emergency medical services officer’s covered employment shall be counted as years of service for the purposes of this article.

(d) Any emergency medical services officer employed in covered employment on the effective date of this article who has timely elected to transfer into this plan as provided in subsection (b) of this section shall be given credited service at the time of transfer for all credited service then standing to the emergency medical services officer’s service credit in the Public Employees Retirement System regardless of whether the credited service (as that term is defined in section two, article ten, chapter five of this code) was earned as an emergency medical services officer. All credited service standing to the transferring emergency medical services officer’s credit in the Public Employees Retirement System at the time of transfer into this plan shall be transferred into the plan created by this article and the transferring emergency medical services officer shall be given the same credit for the purposes of this article for all service transferred from the Public Employees Retirement System as if the
transfer had not occurred. In connection with each transferring emergency medical services officer receiving credit for prior employment as provided in this subsection, a transfer from the Public Employees Retirement System to this plan shall be made pursuant to the procedures described in this article: Provided, That any member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to subsection (b) of this section may not, after having transferred into and becoming an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods in which the member was not in covered employment as an emergency medical services officer and which service was withdrawn from the Public Employees Retirement System prior to his or her elective transfer into this plan.

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

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

§16-5V-7. Creation of Fund; investments; actuarial valuations.
(a) There is hereby created the “West Virginia Emergency Medical Services Retirement Fund” for the benefit of the members of the retirement system created pursuant to this article and the dependents of any deceased or retired member of the system.

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

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

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

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

(b) Any active member who has concurrent employment in an additional job or jobs and the additional employment
requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code shall contribute to the fund the sum of eight and one-half percent of his or her monthly salary earned as an emergency medical services officer as well as the sum of eight and one-half percent of his or her monthly salary earned from any additional employment which additional employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code. An additional percent of the monthly salary of each member shall be paid to the fund by the concurrent employer by which the member is employed in an amount determined by the board: Provided, That in no year may the total of the employer contributions provided in this section, to be paid by the concurrent employer, exceed ten and one-half percent of the payroll for the concurrent member employees.

(c) All required deposits shall be remitted to the board no later than fifteen days following the end of the calendar month for which the deposits are required. If the board upon the recommendation of the board actuary finds that the benefits provided by this article can be actuarially funded with a lesser contribution, then the board shall reduce the required member and employer contributions proportionally. Any county commission or political subdivision which fails to make any payment due the Emergency Medical Services Retirement Fund by the fifteenth day following the end of each calendar month in which contributions are due may be required to pay the actuarial rate of interest lost on the total amount owed for each day the payment is delinquent. Accrual of the loss of earnings owed by the delinquent county commission or political subdivision commences after
the fifteenth day following the end of the calendar month in which contributions are due and continues until receipt of the delinquent amount. Interest compounds daily and the minimum surcharge is $50.

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

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

(a) Any member who terminates covered employment and is not immediately eligible to receive disability or retirement income benefits under this article is, by written request filed with the board, entitled to receive from the fund the member’s accumulated contributions. Except as provided in subsection (b) of this section, upon withdrawal, the
member shall forfeit his or her accrued benefit and cease to
be a member.

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

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

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

(d) Every member who completes sixty months of
covered employment is eligible, upon cessation of covered
employment, to either withdraw his or her accumulated contributions in accordance with this section or to choose not to withdraw his or her accumulated contribution and to receive retirement income payments upon attaining early or normal retirement age.

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


(a) Any member who after the effective date of this article and during covered employment: (1) Has been or becomes totally 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 emergency medical services functions during either scheduled work hours or at any other time; and (4) in the opinion of two physicians after medical examination, one of whom shall be named by the board, the member is by reason of the disability unable to perform adequately the duties required of an emergency medical services officer, is entitled to receive and shall be paid from the fund in monthly installments the compensation set forth under either subsection (b) or (c) of this section.

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

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

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

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

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

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

(d) The board shall propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code concerning member disability payments so as to ensure that the payments do not exceed one hundred percent of the average current salary for the position last held by the member.
(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: Provided, That no member may receive disability benefit payments set forth in this section before January 1, 2011.

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

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

(b) If a retirant refuses to submit to a medical examination or submit a statement by his or her physician certifying continued disability in any period, his or her disability annuity may be discontinued by the board until the retirant complies. If the refusal continues for one year, all the retirant’s rights in and 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 is approved this the 26th day of ______, 2010.

Governor
PRESENTED TO THE GOVERNOR

MAR 2, 5 2010

Time 10:00AM