

FILED

2015 MAR -3 P 6:37

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 299

(BY SENATORS GAUNCH AND TRUMP)

[PASSED FEBRUARY 20, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 299

FILED

2015 MAR -3 P 6:31

ENROLLED

Senate Bill No. 299

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY SENATORS GAUNCH AND TRUMP)

[Passed February 20, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §15-2A-9 and §15-2A-10 of the Code of West Virginia, 1931, as amended, all relating to duty-related and nonduty-related disability retirement in the West Virginia State Police Retirement System; and specifying that disability disbursements begin the first day of the month following approval by the Consolidated Public Retirement Board and the member's termination of employment or as ordered by a court of competent jurisdiction.

Be it enacted by the Legislature of West Virginia:

That §15-2A-9 and §15-2A-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-9. Awards and benefits for disability – Incurred in performance of duty.

- 1 (a) Any employee of the agency who has not yet entered
- 2 retirement status on the basis of age and service and who
- 3 becomes partially disabled by injury, illness or disease
- 4 resulting from any occupational risk or hazard inherent in or

5 peculiar to the services required of employees of the agency
6 or incurred pursuant to or while the employee was engaged
7 in the performance of his or her duties as an employee of the
8 agency shall, if, in the opinion of the board, he or she is, by
9 reason of that cause, unable to perform adequately the duties
10 required of him or her as an employee of the agency, but is
11 able to engage in other gainful employment in a field other
12 than law enforcement, be retired from active service by the
13 board. The retirant thereafter is entitled to receive annually
14 from the fund in equal monthly installments during his or her
15 lifetime, or until the retirant attains the age of fifty-five or
16 until the disability eligibility sooner terminates, one or the
17 other of two amounts, whichever is greater:

18 (1) An amount equal to six tenths of the base salary
19 received in the preceding twelve-month employment period:
20 *Provided*, That if the member had not been employed with
21 the agency for twelve months prior to the disability, the
22 amount of monthly salary shall be annualized for the purpose
23 of determining the benefit; or

24 (2) The sum of \$6,000. The first day of the month
25 following the date in which the retirant attains age fifty-five,
26 the retirant shall receive the benefit provided in section six of
27 this article as it would apply to his or her final average salary
28 based on earnings from the agency through the day
29 immediately preceding his or her disability. The
30 recalculation of benefit upon a retirant attaining age fifty-five
31 shall be considered to be a retirement under the provisions of
32 section six of this article for purposes of determining the
33 amount of annual annuity adjustment and for all other
34 purposes of this article: *Provided*, That a retirant who is
35 partially disabled under this article may not, while in receipt
36 of benefits for partial disability, be employed as a law-
37 enforcement officer: *Provided, however*, That a retirant on
38 a partial disability under this article may serve as an elected

39 sheriff or appointed chief of police in the state without a loss
40 of disability retirement benefits as long as the elected or
41 appointed position is shown, to the satisfaction of the board,
42 to require the performance of administrative duties and
43 functions only, as opposed to the full range of duties of a law-
44 enforcement officer.

45 (b) Any member who has not yet entered retirement
46 status on the basis of age and service and who becomes
47 physically or mentally disabled by injury, illness or disease
48 on a probable permanent basis resulting from any
49 occupational risk or hazard inherent in or peculiar to the
50 services required of employees of the agency or incurred
51 pursuant to or while the employee was or is engaged in the
52 performance of his or her duties as an employee of the
53 agency to the extent that the employee is incapacitated ever
54 to engage in any gainful employment, the employee is
55 entitled to receive annually, and there shall be paid from the
56 fund in equal monthly installments during his or her lifetime
57 or until the disability sooner terminates, an amount equal to
58 the base salary received by the employee in the preceding full
59 twelve-month employment period. Until a member has
60 worked twelve months, the amount of monthly base salary
61 shall be annualized for the purpose of determining the
62 benefit.

63 (c) Disability benefit payments made pursuant to
64 subsection (a) or (b) of this section will begin the first day of
65 the month following board approval and termination of
66 employment or as ordered by a court of competent
67 jurisdiction.

68 (d) The superintendent of the agency may expend moneys
69 from funds appropriated for the agency in payment of
70 medical, surgical, laboratory, x-ray, hospital, ambulance and
71 dental expenses and fees and reasonable costs and expenses

72 incurred in the purchase of artificial limbs and other approved
73 appliances which may be reasonably necessary for any
74 retirant who is temporarily, permanently or totally disabled
75 by injury, illness or disease resulting from any occupational
76 risk or hazard inherent in or peculiar to the service required
77 of employees of the agency or incurred pursuant to or while
78 the employee was or shall be engaged in the performance of
79 duties as an employee of the agency. Whenever the
80 superintendent determines that any disabled retirant is
81 ineligible to receive any of the benefits in this section at
82 public expense, the superintendent shall, at the request of the
83 disabled retirant, refer the matter to the board for hearing and
84 final decision. In no case will the compensation rendered to
85 health care providers for medical and hospital services exceed
86 the then current rate schedule approved by the West Virginia
87 Insurance Commission. Upon termination of employment and
88 receipt of properly executed forms from the agency and the
89 member, the board shall process the member's disability
90 retirement benefit and commence annuity payments as soon
91 as administratively feasible.

§15-2A-10. Same – Due to other causes.

1 (a) If any employee while in active service of the agency
2 becomes partially or totally disabled on a probable permanent
3 basis to the extent that the employee cannot adequately
4 perform the duties required of an employee of the agency
5 from any cause other than those set forth in the preceding
6 section and not due to vicious habits, intemperance or willful
7 misconduct on his or her part, the employee shall be retired
8 by the board. There shall be paid annually to the retirant
9 from the fund in equal monthly installments, commencing on
10 the date the retirant is retired and continuing during the
11 lifetime of the retirant or until the retirant attains the age of
12 fifty-five; while in status of retirement an amount equal to
13 one-half the base salary received by the retirant in the

14 preceding full twelve-month period: *Provided*, That if the
15 retirant had not been employed with the agency for twelve
16 full months prior to the disability, the amount of monthly
17 base salary shall be annualized for the purpose of determining
18 the benefit.

19 (b) The first day of the month following the date in which
20 the retirant attains age fifty-five, the retirant shall receive the
21 benefit provided in section six of this article as it would apply
22 to his or her final average salary based on earnings from the
23 agency through the day immediately preceding his or her
24 disability. The recalculation of benefit upon a retirant
25 attaining age fifty-five shall be considered to be a retirement
26 under the provisions of section six of this article for purposes
27 of determining the amount of annual annuity adjustment and
28 for all other purposes of this article.

29 (c) Disability benefit payments made pursuant to this
30 section will begin the first day of the month following board
31 approval and termination of employment or as ordered by a
32 court of competent jurisdiction: *Provided*, That in no
33 circumstance may the disability payments begin prior to
34 termination of employment in order to avoid an in-service
35 distribution.

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

Mark R. Hayward
.....
Chairman Senate Committee

Adm B. McCl
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Mark A. Brown
.....
Clerk of the Senate

John J. Averis
.....
Clerk of the House of Delegates

William J. Peltola
.....
President of the Senate

Anthony D. Williams
.....
Speaker of the House of Delegates

The within is approved this the 30th

Day of March, 2015.

Carl Roy Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

FEB 27 2015

Time 5:00 pm