

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5188**

By Delegates Chiarelli, Mallow, DeVault, Sheedy,

Hornby, E. Pritt and Hornbuckle

[Introduced January 25, 2024; Referred to the

Committee on Veterans' Affairs and Homeland

Security then Finance]

1 A BILL to amend and reenact §8-22A-17 of the Code of West Virginia, 1931, as amended, relating  
 2 to eliminating the prerequisite that a disabled police officer or firefighter be found unable to  
 3 engage in other substantial gainful employment before awarding disability benefits.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND  
 FIREFIGHTERS RETIREMENT SYSTEM.**

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

1 (a) Except as provided in §8-22A-9(a) of this code, any member who after the effective  
 2 date of this article and during covered employment: (1) Has been or becomes totally disabled by  
 3 injury, illness or disease; and (2) the disability is a result of an occupational risk or hazard inherent  
 4 in or peculiar to the services required of members; or (3) the disability was incurred while  
 5 performing police officer or firefighter functions during either scheduled work hours or at any other  
 6 time; and (4) in the opinion of two physicians after medical examination, at least one of whom shall  
 7 be named by the board, the member is by reason of the disability not only unable to perform his or  
 8 her previous work as a police officer or firefighter ~~but also cannot, considering his or her age,~~  
 9 ~~education and work experience, engage in any other kind of substantial gainful employment which~~  
 10 ~~exists in the state regardless of whether: (A) The work exists in the immediate area in which the~~  
 11 ~~member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she~~  
 12 ~~applied for work~~ is entitled to receive and shall be paid from the fund in monthly installments during  
 13 the lifetime of the member or, if sooner, until the member attains normal retirement age or until the  
 14 disability sooner terminates, the compensation under this section. ~~For purposes of this article,~~  
 15 ~~substantial gainful employment is the same definition as used by the United States Social Security~~  
 16 ~~Administration~~

17 (b) If the member is totally disabled, the member shall receive 90 percent of his or her  
 18 average monthly compensation for months in which full compensation was received for the 12-

19 month contributory period preceding the member's disability or the shorter period if the member  
20 has not worked 12 months.

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

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

NOTE: The purpose of this bill is to eliminate the prerequisite that a disabled police officer or firefighter be found unable to engage in other substantial gainful employment before awarding disability benefits.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.