

1                                   **Senate Bill No. 259**

2                                    (By Senator Foster)

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4           [Introduced January 25, 2011; referred to the Committee on

5                   Pensions; and then to the Committee on Finance.]

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**FISCAL  
NOTE**

9 A BILL to amend and reenact §15-2-31 of the Code of West Virginia,  
10       1931, as amended; and to amend and reenact §15-2A-11 of said  
11       code, all relating to payment of physical disability and/or  
12       mental disability examinations approved by the Consolidated  
13       Public Retirement Board under the State Police Death,  
14       Disability and Retirement plan and the West Virginia State  
15       Police Retirement System.

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

17       That §15-2-31 of the Code of West Virginia, 1931, as amended,  
18       be amended and reenacted; and that §15-2A-11 of said code be  
19       amended and reenacted, all to read as follows:

20 **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

21 **§15-2-31. Disability physical examinations; termination.**

22       The board may require any retirant who has been retired with  
23       compensation on account of disability to submit to a physical

1 and/or mental examination by a physician or physicians selected or  
2 approved by the board ~~and cause all costs incident to the~~  
3 ~~examination including hospital, laboratory, X-ray, medical and~~  
4 ~~physicians' fees to be paid out of funds appropriated to defray the~~  
5 ~~current expense of the agency~~ and a report of the findings of the  
6 physician or physicians shall be submitted in writing to the board  
7 for its consideration. The cost of the examination shall be paid  
8 by the fund. If, from the report or from the report and hearing on  
9 the report, the board is of the opinion and finds that the disabled  
10 retirant has recovered from the disability to the extent that he or  
11 she is able to perform adequately the duties of a law-enforcement  
12 officer, the board shall order that all payments from the fund to  
13 that disabled retirant be terminated. If, from the report or the  
14 report and hearing on the report, the board is of the opinion and  
15 finds that the disabled retirant has recovered from his or her  
16 previously determined probable permanent disability to the extent  
17 that he or she is able to engage in gainful employment but remains  
18 unable to adequately perform the duties of a law-enforcement  
19 officer, the board shall order the payment, in monthly installments  
20 of an amount equal to two thirds of the salary, in the case of a  
21 retirant retired under the provisions of section twenty-nine of  
22 this article or equal to one half of the salary, in the case of a  
23 retirant retired under the provisions of section thirty of this  
24 article, excluding any compensation paid for overtime service, for

1 the twelve-month employment period immediately preceding the  
2 disability award: *Provided*, That if the retirant had not been  
3 employed with the fund for twelve months immediately prior to the  
4 disability award, the amount of monthly salary shall be annualized  
5 for the purpose of determining the benefit.

6 **ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

7 **§15-2A-11. Same -- Physical examinations; termination.**

8 The board may require any disabled retirant to submit to a  
9 physical or mental examination or both a physical and mental  
10 examination by a physician or physicians selected or approved by  
11 the board ~~and cause all costs incident to the examination,~~  
12 ~~including hospital, laboratory, X-ray, medical and physicians'~~  
13 ~~fees, to be paid out of funds appropriated to defray the current~~  
14 ~~expenses of the agency,~~ and the physician or physicians shall  
15 submit a report of the findings of the physician or physicians in  
16 writing to the board for its consideration. The cost of the  
17 examination shall be paid by the fund. If from the report, or from  
18 the report and hearing on the report, the board is of the opinion  
19 and finds that the disabled retirant has recovered from the  
20 disability to the extent that he or she is able to perform  
21 adequately the duties of a law-enforcement officer, the board shall  
22 order that all payments from the fund to that disabled retirant be  
23 terminated. If from the report, or the report and hearing on the  
24 report, the board is of the opinion and finds that the disabled

1 retirant has recovered from his or her previously determined  
2 probable permanent disability to the extent that he or she is able  
3 to engage in any gainful employment, but unable to adequately  
4 perform the duties of a law-enforcement officer, the board shall  
5 order, in the case of a disabled retirant receiving benefits under  
6 the provisions of section nine of this article, that the disabled  
7 retirant be paid annually from the fund an amount equal to six  
8 tenths of the base salary paid to the retirant in the last full  
9 twelve-month employment period. The board shall order, in the case  
10 of a disabled retirant receiving benefits under the provisions of  
11 section ten of this article, that the disabled retirant be paid  
12 from the fund an amount equal to one fourth of the base salary paid  
13 to the retirant in the last full twelve-month employment period:  
14 *Provided*, That if the retirant had not been employed with the  
15 agency for twelve full months prior to the disability, the amount  
16 of monthly salary shall be annualized for the purpose of  
17 determining the benefit.

NOTE: The purpose of this bill is to provide for the costs of disability physical and/or mental examinations approved by the Consolidated Public Retirement Board under the West Virginia State Police plan to be paid from the State Police Death, Disability and Retirement Fund and under the West Virginia State Police Retirement System to be paid from the West Virginia State Police Retirement Fund.

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