

COMMITTEE SUBSTITUTE

FOR

H. B. 2863

(BY DELEGATES PETHTEL, GIVENS, ENNIS, CANTERBURY,
DUKE, GUTHRIE AND D. POLING)

(Originating in the Committee on Finance)
[February 18, 2011]

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

System; providing for reinstatement to active duty under certain conditions of formerly disabled State Police officers considered no longer disabled from law enforcement work; and providing that a former disability retirant reinstated to active duty with the State Police shall rejoin the retirement system in which originally enrolled with restoration of credited service in force at the time of disability retirement.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. WEST VIRGINIA STATE POLICE.

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

1 (a) The board may require any retirant who has been
2 retired with compensation on account of disability to submit
3 to a physical and/or mental examination by a physician or
4 physicians selected or approved by the board ~~and cause all~~
5 ~~costs incident to the examination including hospital,~~
6 ~~laboratory, X-ray, medical and physicians' fees to be paid out~~

7 ~~of funds appropriated to defray the current expense of the~~
8 ~~agency~~ and a report of the findings of the physician or
9 physicians shall be submitted in writing to the board for its
10 consideration. All medical costs associated with the
11 examination shall be paid by the fund. If, from the report or
12 from the report and hearing on the report, the board is of the
13 opinion and finds that the disabled retirant has recovered
14 from the disability to the extent that he or she is able to
15 perform adequately the duties of a law-enforcement officer,
16 ~~the board shall order that all payments from the fund to that~~
17 ~~disabled retirant be terminated~~ the board shall within five
18 working days provide written notice of the finding to the
19 Superintendent of State Police, who shall reinstate the
20 retirant to active duty as a member of the department at his
21 or her rank or classification prior to the disability retirement
22 within forty-five days of the finding, unless the retirant
23 declines to be reinstated, is found by a background check to
24 be ineligible for reinstatement, or is found by the
25 Superintendent to be unacceptable due to the retirant's

26 performance history and evaluations during prior work with
27 the department. The Superintendent shall promptly notify
28 the Board when the retirant is reinstated, is found ineligible
29 for reinstatement due to a background check or unacceptable
30 prior performance history or evaluations, or refuses
31 reinstatement. The board shall order disability payments
32 from the fund to be terminated at the earlier of the date of the
33 retirant's reinstatement, regular retirement, failure of a
34 background check, finding of unacceptable prior
35 performance history or evaluation with the department,
36 failure to accept reinstatement or forty-five days from the
37 board's finding. If, from the report or the report and hearing
38 on the report, the board is of the opinion and finds that the
39 disabled retirant has recovered from his or her previously
40 determined probable permanent disability to the extent that
41 he or she is able to engage in gainful employment but
42 remains unable to adequately perform the duties of a law-
43 enforcement officer, the board shall order the payment, in
44 monthly installments of an amount equal to two thirds of the

45 salary, in the case of a retirant retired under the provisions of
46 section twenty-nine of this article or equal to one half of the
47 salary, in the case of a retirant retired under the provisions of
48 section thirty of this article, excluding any compensation paid
49 for overtime service, for the twelve-month employment
50 period immediately preceding the disability award.
51 *Provided*, That if the retirant had not been employed with the
52 fund for twelve months immediately prior to the disability
53 award, the amount of monthly salary shall be annualized for
54 the purpose of determining the benefit.

55 (b) A disability retirant who is returned to active duty as
56 a member of the West Virginia State Police shall again
57 become a member of the retirement system in which he or
58 she was originally enrolled and the retirant's credited service
59 in force at the time of retirement shall be restored.

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

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

1 (a) The board may require any disabled retirant to submit
2 to a physical or mental examination or both a physical and

3 mental examination by a physician or physicians selected or
4 approved by the board ~~and cause all costs incident to the~~
5 ~~examination, including hospital, laboratory, X-ray, medical~~
6 ~~and physicians' fees, to be paid out of funds appropriated to~~
7 ~~defray the current expenses of the agency, and the physician or~~
8 physicians shall submit a report of the findings of the
9 physician or physicians in writing to the board for its
10 consideration. All medical costs associated with the
11 examination shall be paid by the fund. If from the report, or
12 from the report and hearing on the report, the board is of the
13 opinion and finds that the disabled retirant has recovered from
14 the disability to the extent that he or she is able to perform
15 adequately the duties of a law-enforcement officer, ~~the board~~
16 ~~shall order that all payments from the fund to that disabled~~
17 ~~retirant be terminated~~ the board shall within five working days
18 provide written notice of the finding to the Superintendent of
19 State Police, who shall reinstate the retirant to active duty as a
20 member of the department at his or her rank or classification
21 prior to the disability retirement within forty-five days of the

22 finding, unless the retirant declines to be reinstated, is found
23 by a background check to be ineligible for reinstatement, or is
24 found by the Superintendent to be unacceptable due to the
25 retirant's performance history and evaluations during prior
26 work with the department. The Superintendent shall promptly
27 notify the board when the retirant is reinstated, is found
28 ineligible for reinstatement due to a background check or
29 unacceptable prior performance history or evaluations, or
30 refuses reinstatement. The board shall order disability
31 payments from the fund to be terminated at the earlier of the
32 date of the retirant's reinstatement, regular retirement, failure
33 of a background check, finding of unacceptable prior
34 performance history or evaluation with the department, failure
35 to accept reinstatement or forty-five days from the board's
36 finding. If from the report, or the report and hearing on the
37 report, the board is of the opinion and finds that the disabled
38 retirant has recovered from his or her previously determined
39 probable permanent disability to the extent that he or she is
40 able to engage in any gainful employment, but unable to

41 adequately perform the duties of a law-enforcement officer,
42 the board shall order, in the case of a disabled retirant
43 receiving benefits under the provisions of section nine of this
44 article, that the disabled retirant be paid annually from the fund
45 an amount equal to six tenths of the base salary paid to the
46 retirant in the last full twelve-month employment period. The
47 board shall order, in the case of a disabled retirant receiving
48 benefits under the provisions of section ten of this article, that
49 the disabled retirant be paid from the fund an amount equal to
50 one fourth of the base salary paid to the retirant in the last full
51 twelve-month employment period: *Provided*, That if the
52 retirant had not been employed with the agency for twelve full
53 months prior to the disability, the amount of monthly salary
54 shall be annualized for the purpose of determining the benefit.

55 (b) A disability retirant who is returned to active duty as
56 a member of the West Virginia State Police shall again
57 become a member of the retirement system in which he or
58 she was originally enrolled and the retirant's credited service
59 in force at the time of retirement shall be restored.