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ENGROSSED

Senate Bill No. 299

(By Senators Gaunch and Trump)

[Introduced January 26, 2015; referred to the Committee on Pensions; and then to the Committee
on the Judiciary.]

A BILL 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 disability retirement in the West Virginia State Police Retirement System; and specifying that disability disbursements shall begin the first day of the month following approval by the Consolidated Public Retirement Board and member’s termination of employment.

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.

(a) Any employee of the agency who has not yet entered retirement status on the basis of age

1 and service and who becomes partially disabled by injury, illness or disease resulting from any
2 occupational risk or hazard inherent in or peculiar to the services required of employees of the
3 agency or incurred pursuant to or while the employee was engaged in the performance of his or her
4 duties as an employee of the agency shall, if, in the opinion of the board, he or she is, by reason of
5 that cause, unable to perform adequately the duties required of him or her as an employee of the
6 agency, but is able to engage in other gainful employment in a field other than law enforcement, be
7 retired from active service by the board. The retirant thereafter is entitled to receive annually from
8 the fund in equal monthly installments during his or her lifetime, or until the retirant attains the age
9 of fifty-five or until the disability eligibility sooner terminates, one or the other of two amounts,
10 whichever is greater:

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

15 (2) The sum of \$6,000. The first day of the month following the date in which the retirant
16 attains age fifty-five, the retirant shall receive the benefit provided in section six of this article as it
17 would apply to his or her final average salary based on earnings from the agency through the day
18 immediately preceding his or her disability. The recalculation of benefit upon a retirant attaining age
19 fifty-five shall be considered to be a retirement under the provisions of section six of this article for
20 purposes of determining the amount of annual annuity adjustment and for all other purposes of this
21 article: *Provided*, That a retirant who is partially disabled under this article may not, while in receipt

1 of benefits for partial disability, be employed as a law-enforcement officer: *Provided, however,* That
2 a retirant on a partial disability under this article may serve as an elected sheriff or appointed chief
3 of police in the state without a loss of disability retirement benefits as long as the elected or
4 appointed position is shown, to the satisfaction of the board, to require the performance of
5 administrative duties and functions only, as opposed to the full range of duties of a law-enforcement
6 officer.

7 (b) Any member who has not yet entered retirement status on the basis of age and service and
8 who becomes physically or mentally disabled by injury, illness or disease on a probable permanent
9 basis resulting from any occupational risk or hazard inherent in or peculiar to the services required
10 of employees of the agency or incurred pursuant to or while the employee was or is engaged in the
11 performance of his or her duties as an employee of the agency to the extent that the employee is
12 incapacitated ever to engage in any gainful employment, the employee is entitled to receive annually,
13 and there shall be paid from the fund in equal monthly installments during his or her lifetime or until
14 the disability sooner terminates, an amount equal to the base salary received by the employee in the
15 preceding full twelve-month employment period. Until a member has worked twelve months, the
16 amount of monthly base salary shall be annualized for the purpose of determining the benefit.

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

20 ~~(c)~~ (d) The superintendent of the agency may expend moneys from funds appropriated for
21 the agency in payment of medical, surgical, laboratory, x-ray, hospital, ambulance and dental

1 expenses and fees and reasonable costs and expenses incurred in the purchase of artificial limbs and
2 other approved appliances which may be reasonably necessary for any retirant who is temporarily,
3 permanently or totally disabled by injury, illness or disease resulting from any occupational risk or
4 hazard inherent in or peculiar to the service required of employees of the agency or incurred pursuant
5 to or while the employee was or shall be engaged in the performance of duties as an employee of the
6 agency. Whenever the superintendent determines that any disabled retirant is ineligible to receive
7 any of the benefits in this section at public expense, the superintendent shall, at the request of the
8 disabled retirant, refer the matter to the board for hearing and final decision. In no case will the
9 compensation rendered to health care providers for medical and hospital services exceed the then
10 current rate schedule approved by the West Virginia Insurance Commission. Upon termination of
11 employment and receipt of properly executed forms from the agency and the member, the board shall
12 process the member's disability retirement benefit and commence annuity payments as soon as
13 administratively feasible.

14 **§15-2A-10. Same -- Due to other causes.**

15 (a) If any employee while in active service of the agency becomes partially or totally disabled
16 on a probable permanent basis to the extent that the employee cannot adequately perform the duties
17 required of an employee of the agency from any cause other than those set forth in the preceding
18 section and not due to vicious habits, intemperance or willful misconduct on his or her part, the
19 employee shall be retired by the board. There shall be paid annually to the retirant from the fund in
20 equal monthly installments, commencing on the date the retirant is retired and continuing during the
21 lifetime of the retirant or until the retirant attains the age of fifty-five; while in status of retirement

1 an amount equal to one-half the base salary received by the retirant in the preceding full twelve-
2 month period: *Provided*, That if the retirant had not been employed with the agency for twelve full
3 months prior to the disability, the amount of monthly base salary shall be annualized for the purpose
4 of determining the benefit.

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

11 (c) Disability benefit payments made pursuant to this section will begin the first day of the
12 month following board approval and termination of employment or as ordered by a court of
13 competent jurisdiction.