

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-SECOND LEGISLATURE**  
**REGULAR SESSION, 2015**



**E N R O L L E D**

**Senate Bill No. 299**

**(BY SENATORS GAUNCH AND TRUMP)**

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

E N R O L L E D

## Senate Bill No. 299

(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.

.....

*Chairman Senate Committee*

.....

*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

.....

*Clerk of the Senate*

.....

*Clerk of the House of Delegates*

.....

*President of the Senate*

.....

*Speaker of the House of Delegates*

\_\_\_\_\_

The within ..... this the .....

Day of ....., 2015.

.....

*Governor*