

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5188

By Delegates Chiarelli, Mallow, DeVault, Sheedy,

Hornby, E. Pritt, and Hornbuckle

[Originating in the Committee on Finance; Reported

on February 22, 2024]

1 A BILL to amend §8-22A-17 of the Code of West Virginia, 1931, as amended, relating to providing
2 certain partial disability benefits for members in the WV Municipal Police Officers and
3 Firefighters Retirement System.

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

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

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

21 (c) If the member is partially disabled, the member shall receive 45 percent of his or her
22 average full monthly compensation for the 12-month contributory period preceding the member's
23 disability award, or the shorter period if the member has not worked 12 months.

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

27 (d) (e) The disability benefit payments will begin the first day of the month following
28 termination of employment and receipt of the disability retirement application by the Consolidated
29 Public Retirement Board.

30 (f) For purposes of this article, unless a federal law or regulation or the context clearly
31 requires a different meaning, "partially disabled" means a member's inability to engage in the
32 duties of a police officer or firefighter by reason of any medically determinable physical or mental
33 impairment that can be expected to result in death or that has lasted or can be expected to last for
34 a continuous period of not less than 12 months. A member may be determined partially disabled
35 for the purposes of this article and maintain the ability to engage in other gainful employment
36 which exists within the state, but which ability would not enable him or her to earn an amount at
37 least equal to two thirds of the average annual compensation earned by all active members of this
38 plan during the plan year ending as of the most recent June 30, as of which plan data has been
39 assembled and used for the actuarial valuation of the plan.