

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 259**

4 (By Senator Foster)

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6 [Originating in the Committee on Pensions;
7 reported February 8, 2011.]
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9
10 A BILL to amend and reenact §15-2-31 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §15-2A-11 of said
12 code, all relating to State Police, providing for payment of
13 medical costs of physical disability and/or mental disability
14 examinations approved by the Consolidated Public Retirement
15 Board under the State Police Death, Disability and Retirement
16 plan and the West Virginia State Police Retirement System;
17 providing for reinstatement to active duty under certain
18 conditions of formerly disabled State Police officers
19 considered no longer disabled from law enforcement work; and
20 providing that a former disability retirant reinstated to
21 active duty with the State Police shall rejoin the retirement
22 system in which originally enrolled with restoration of
23 credited service in force at the time of disability
24 retirement.

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

26 That §15-2-31 of the Code of West Virginia, 1931, as amended,

1 be amended and reenacted; and that §15-2A-11 of said code be
2 amended and reenacted, all to read as follows:

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

4 **§15-2-31. Disability physical examinations; termination.**

5 (a) The board may require any retirant who has been retired
6 with compensation on account of disability to submit to a physical
7 and/or mental examination by a physician or physicians selected or
8 approved by the board ~~and cause all costs incident to the~~
9 ~~examination including hospital, laboratory, X-ray, medical and~~
10 ~~physicians' fees to be paid out of funds appropriated to defray the~~
11 ~~current expense of the agency~~ and a report of the findings of the
12 physician or physicians shall be submitted in writing to the board
13 for its consideration. All medical costs associated with the
14 examination shall be paid by the fund. If, from the report or from
15 the report and hearing on the report, the board is of the opinion
16 and finds that the disabled retirant has recovered from the
17 disability to the extent that he or she is able to perform
18 adequately the duties of a law-enforcement officer, ~~the board shall~~
19 ~~order that all payments from the fund to that disabled retirant be~~
20 ~~terminated~~ the board shall within five working days provide
21 written notice of the finding to the Superintendent of State
22 Police, who shall reinstate the retirant to active duty as a member
23 of the department within forty-five days of the finding, unless the
24 retirant declines to be reinstated, is found by a background check
25 to be ineligible for reinstatement, or is found by the

1 Superintendent to be unacceptable due to the retirant's performance
2 evaluations during prior work with the department. The
3 Superintendent shall promptly notify the Board when the retirant is
4 reinstated, is found ineligible for reinstatement due to a
5 background check or unacceptable prior performance evaluations, or
6 refuses reinstatement. The board shall order disability payments
7 from the fund to be terminated at the earlier of the date of the
8 retirant's reinstatement, regular retirement, failure of a
9 background check, finding of unacceptable prior performance
10 evaluation with the department, failure to accept reinstatement or
11 forty-five days from the board's finding. If, from the report or
12 the report and hearing on the report, the board is of the opinion
13 and finds that the disabled retirant has recovered from his or her
14 previously determined probable permanent disability to the extent
15 that he or she is able to engage in gainful employment but remains
16 unable to adequately perform the duties of a law-enforcement
17 officer, the board shall order the payment, in monthly installments
18 of an amount equal to two thirds of the salary, in the case of a
19 retirant retired under the provisions of section twenty-nine of
20 this article or equal to one half of the salary, in the case of a
21 retirant retired under the provisions of section thirty of this
22 article, excluding any compensation paid for overtime service, for
23 the twelve-month employment period immediately preceding the
24 disability award: *Provided*, That if the retirant had not been
25 employed with the fund for twelve months immediately prior to the
26 disability award, the amount of monthly salary shall be annualized

1 for the purpose of determining the benefit.

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

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

8 **§15-2A-11. Same -- Physical examinations; termination.**

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

1 State Police, who shall reinstate the retirant to active duty as a
2 member of the department within forty-five days of the finding,
3 unless the retirant declines to be reinstated, is found by a
4 background check to be ineligible for reinstatement, or is found by
5 the Superintendent to be unacceptable due to the retirant's
6 performance evaluations during prior work with the department. The
7 Superintendent shall promptly notify the board when the retirant is
8 reinstated, is found ineligible for reinstatement due to a
9 background check or unacceptable prior performance evaluations, or
10 refuses reinstatement. The board shall order disability payments
11 from the fund to be terminated at the earlier of the date of the
12 retirant's reinstatement, regular retirement, failure of a
13 background check, finding of unacceptable prior performance
14 evaluation with the department, failure to accept reinstatement or
15 forty-five days from the board's finding. If from the report, or
16 the report and hearing on the report, the board is of the opinion
17 and finds that the disabled retirant has recovered from his or her
18 previously determined probable permanent disability to the extent
19 that he or she is able to engage in any gainful employment, but
20 unable to adequately perform the duties of a law-enforcement
21 officer, the board shall order, in the case of a disabled retirant
22 receiving benefits under the provisions of section nine of this
23 article, that the disabled retirant be paid annually from the fund
24 an amount equal to six tenths of the base salary paid to the
25 retirant in the last full twelve-month employment period. The board
26 shall order, in the case of a disabled retirant receiving benefits

1 under the provisions of section ten of this article, that the
2 disabled retirant be paid from the fund an amount equal to one
3 fourth of the base salary paid to the retirant in the last full
4 twelve-month employment period: *Provided*, That if the retirant had
5 not been employed with the agency for twelve full months prior to
6 the disability, the amount of monthly salary shall be annualized
7 for the purpose of determining the benefit.

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