

H. B. 2863

(By Delegates Pethtel, Givens, Ennis, Canterbury,
Duke, Guthrie and D. Poling)

(By Request of the Consolidated Public Retirement Board)

[Introduced January 26, 2011; referred to the
Committee on Pensions and Retirement then Finance.]

**FISCAL
NOTE**

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 payment of disability physical and/or mental 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.

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.

The board may require any retirant who has been retired with compensation on account of disability to submit to a physical and/or mental examination by a physician or physicians selected or

1 approved by the board ~~and cause all costs incident to the~~
2 ~~examination including hospital, laboratory, X-ray, medical and~~
3 ~~physicians' fees to be paid out of funds appropriated to defray the~~
4 ~~current expense of the agency~~ and a report of the findings of the
5 physician or physicians shall be submitted in writing to the board
6 for its consideration. The cost of the examination shall be paid
7 by the fund. If, from the report or from the report and hearing on
8 the report, the board is of the opinion and finds that the disabled
9 retirant has recovered from the disability to the extent that he or
10 she is able to perform adequately the duties of a law-enforcement
11 officer, the board shall order that all payments from the fund to
12 that disabled retirant be terminated. If, from the report or the
13 report and hearing on the report, the board is of the opinion and
14 finds that the disabled retirant has recovered from his or her
15 previously determined probable permanent disability to the extent
16 that he or she is able to engage in gainful employment but remains
17 unable to adequately perform the duties of a law-enforcement
18 officer, the board shall order the payment, in monthly installments
19 of an amount equal to two thirds of the salary, in the case of a
20 retirant retired under the provisions of section twenty-nine of
21 this article or equal to one half of the salary, in the case of a
22 retirant retired under the provisions of section thirty of this
23 article, excluding any compensation paid for overtime service, for
24 the twelve-month employment period immediately preceding the

1 disability award: *Provided*, That if the retirant had not been
2 employed with the fund for twelve months immediately prior to the
3 disability award, the amount of monthly salary shall be annualized
4 for the purpose of determining the benefit.

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

6 **§15-2A-11. Same -- Physical examinations; termination.**

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

1 probable permanent disability to the extent that he or she is able
2 to engage in any gainful employment, but unable to adequately
3 perform the duties of a law-enforcement officer, the board shall
4 order, in the case of a disabled retirant receiving benefits under
5 the provisions of section nine of this article, that the disabled
6 retirant be paid annually from the fund an amount equal to six
7 tenths of the base salary paid to the retirant in the last full
8 twelve-month employment period. The board shall order, in the case
9 of a disabled retirant receiving benefits under the provisions of
10 section ten of this article, that the disabled retirant be paid
11 from the fund an amount equal to one fourth of the base salary paid
12 to the retirant in the last full twelve-month employment period:
13 *Provided*, That if the retirant had not been employed with the
14 agency for twelve full months prior to the disability, the amount
15 of monthly salary shall be annualized for the purpose of
16 determining the benefit.

NOTE: The purpose of this bill is to provide for the costs of disability physical and/or mental examinations approved by the Consolidated Public Retirement Board under the West Virginia State Police plan to be paid from the State Police Death, Disability and Retirement Fund and under the West Virginia State Police Retirement System to be paid from the West Virginia State Police Retirement Fund.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.