

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 2863

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



Passed March 10, 2011

In Effect Ninety Days From Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2863

(BY DELEGATES PETHTEL, GIVENS, ENNIS, CANTERBURY,
DUKE, GUTHRIE AND D. POLING)

[Passed March 10, 2011; in effect ninety days from passage.]

AN ACT 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 State Police; providing for payment of medical costs of physical disability and/or mental disability 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; providing for reinstatement to active duty under certain conditions of formerly disabled State Police officers considered no longer disabled from law enforcement work; and providing that a former disability retirant reinstated to active duty with the State Police shall rejoin the retirement system in which

originally enrolled with restoration of credited service in force at the time of disability retirement.

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.

1 (a) The board may require any retirant who has been
2 retired with compensation on account of disability to submit
3 to a physical and/or mental examination by a physician or
4 physicians selected or approved by the board and a report of
5 the findings of the physician or physicians shall be submitted
6 in writing to the board for its consideration. All medical
7 costs associated with the examination shall be paid by the
8 fund. If, from the report or from the report and hearing on
9 the report, the board is of the opinion and finds that the
10 disabled retirant has recovered from the disability to the
11 extent that he or she is able to perform adequately the duties
12 of a law-enforcement officer, the board shall within five
13 working days provide written notice of the finding to the
14 Superintendent of State Police, who shall reinstate the retirant
15 to active duty as a member of the department at his or her
16 rank or classification prior to the disability retirement within
17 forty-five days of the finding, unless the retirant declines to
18 be reinstated, is found by a background check to be ineligible
19 for reinstatement, or is found by the Superintendent to be
20 unacceptable due to the retirant's performance history and
21 evaluations during prior work with the department. The
22 Superintendent shall promptly notify the Board when the
23 retirant is reinstated, is found ineligible for reinstatement due

24 to a background check or unacceptable prior performance
25 history or evaluations, or refuses reinstatement. The board
26 shall order disability payments from the fund to be
27 terminated at the earlier of the date of the retirant's
28 reinstatement, regular retirement, failure of a background
29 check, finding of unacceptable prior performance history or
30 evaluation with the department, failure to accept
31 reinstatement or forty-five days from the board's finding. If,
32 from the report or the report and hearing on the report, the
33 board is of the opinion and finds that the disabled retirant has
34 recovered from his or her previously determined probable
35 permanent disability to the extent that he or she is able to
36 engage in gainful employment but remains unable to
37 adequately perform the duties of a law-enforcement officer,
38 the board shall order the payment, in monthly installments of
39 an amount equal to two thirds of the salary, in the case of a
40 retirant retired under the provisions of section twenty-nine of
41 this article or equal to one half of the salary, in the case of a
42 retirant retired under the provisions of section thirty of this
43 article, excluding any compensation paid for overtime
44 service, for the twelve-month employment period
45 immediately preceding the disability award: *Provided*, That
46 if the retirant had not been employed with the fund for twelve
47 months immediately prior to the disability award, the amount
48 of monthly salary shall be annualized for the purpose of
49 determining the benefit.

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

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

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

1 (a) The board may require any disabled retirant to submit
2 to a physical or mental examination or both a physical and
3 mental examination by a physician or physicians selected or
4 approved by the board and the physician or physicians shall
5 submit a report of the findings of the physician or physicians
6 in writing to the board for its consideration. All medical
7 costs associated with the examination shall be paid by the
8 fund. If from the report, or from the report and hearing on
9 the report, the board is of the opinion and finds that the
10 disabled retirant has recovered from the disability to the
11 extent that he or she is able to perform adequately the duties
12 of a law-enforcement officer, the board shall within five
13 working days provide written notice of the finding to the
14 Superintendent of State Police, who shall reinstate the retirant
15 to active duty as a member of the department at his or her
16 rank or classification prior to the disability retirement within
17 forty-five days of the finding, unless the retirant declines to
18 be reinstated, is found by a background check to be ineligible
19 for reinstatement, or is found by the Superintendent to be
20 unacceptable due to the retirant's performance history and
21 evaluations during prior work with the department. The
22 Superintendent shall promptly notify the board when the
23 retirant is reinstated, is found ineligible for reinstatement due
24 to a background check or unacceptable prior performance
25 history or evaluations, or refuses reinstatement. The board
26 shall order disability payments from the fund to be
27 terminated at the earlier of the date of the retirant's
28 reinstatement, regular retirement, failure of a background
29 check, finding of unacceptable prior performance history or
30 evaluation with the department, failure to accept
31 reinstatement or forty-five days from the board's finding. If
32 from the report, or the report and hearing on the report, the
33 board is of the opinion and finds that the disabled retirant has
34 recovered from his or her previously determined probable

35 permanent disability to the extent that he or she is able to
36 engage in any gainful employment, but unable to adequately
37 perform the duties of a law-enforcement officer, the board
38 shall order, in the case of a disabled retirant receiving
39 benefits under the provisions of section nine of this article,
40 that the disabled retirant be paid annually from the fund an
41 amount equal to six tenths of the base salary paid to the
42 retirant in the last full twelve-month employment period. The
43 board shall order, in the case of a disabled retirant receiving
44 benefits under the provisions of section ten of this article, that
45 the disabled retirant be paid from the fund an amount equal
46 to one fourth of the base salary paid to the retirant in the last
47 full twelve-month employment period: *Provided*, That if the
48 retirant had not been employed with the agency for twelve
49 full months prior to the disability, the amount of monthly
50 salary shall be annualized for the purpose of determining the
51 benefit.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2011.

Governor