

**H. B. 2867**

(By Delegates Ashley, Boggs, Staggers, Williams, Moye,  
Caputo, Kump and Barill)

[Introduced March 8, 2013; referred to the  
Committee on Pensions and Retirement then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §15-2A-9 of the Code of West Virginia,  
1931, as amended, relating to awarding qualified disabled  
state troopers the Purple Heart by the Superintendent of the  
State Police and a Wounded in the Line of Duty registration by  
the Department of Motor Vehicles.

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

That §15-2A-9 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted 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.**

(a) ~~Any~~ An employee of the agency who has not yet entered  
retirement status on the basis of age and service and who becomes  
partially disabled by injury, illness or disease resulting from ~~any~~  
an occupational risk or hazard inherent in or peculiar to the  
services required of employees of the agency or incurred pursuant

1 to or while the employee was engaged in the performance of his or  
2 her duties as an employee of the agency shall, if, in the opinion  
3 of the board, he or she is, by reason of that cause, unable to  
4 perform adequately the duties required of him or her as an employee  
5 of the agency but is able to engage in other gainful employment in  
6 a field other than law enforcement, be retired from active service  
7 by the board. The retirant thereafter is entitled to receive  
8 annually from the fund in equal monthly installments during his or  
9 her lifetime or until the retirant attains the age of fifty-five or  
10 until the disability eligibility sooner terminates, one or the  
11 other of two amounts, whichever is greater:

12 (1) An amount equal to six tenths of the base salary received  
13 in the preceding twelve-month employment period. ~~Provided, That~~  
14 If the member had not been employed with the agency for twelve  
15 months prior to the disability, the amount of monthly salary shall  
16 be annualized for the purpose of determining the benefit; or

17 (2) The sum of \$6,000. The first day of the month following  
18 the date in which the retirant attains age fifty-five, the retirant  
19 shall receive the benefit provided in section six of this article  
20 as it would apply to his or her final average salary based on  
21 earnings from the agency through the day immediately preceding his  
22 or her disability. The recalculation of benefit upon a retirant  
23 attaining age fifty-five shall be considered to be a retirement  
24 under the provisions of section six of this article for purposes of

1 determining the amount of annual annuity adjustment and for all  
2 other purposes of this article: *Provided*, That a retirant who is  
3 partially disabled under this article may not, while in receipt of  
4 benefits for partial disability, be employed as a law-enforcement  
5 officer: *Provided, however*, That a retirant on a partial  
6 disability under this article may serve as an elected sheriff or  
7 appointed chief of police in the state without a loss of disability  
8 retirement benefits as long as the elected or appointed position is  
9 shown, to the satisfaction of the board, to require the performance  
10 of administrative duties and functions only, as opposed to the full  
11 range of duties of a law-enforcement officer.

12 (b) ~~Any~~ A member who has not yet entered retirement status on  
13 the basis of age and service and who becomes physically or mentally  
14 disabled by injury, illness or disease on a probable permanent  
15 basis resulting from any occupational risk or hazard inherent in or  
16 peculiar to the services required of employees of the agency or  
17 incurred pursuant to or while the employee was or is engaged in the  
18 performance of his or her duties as an employee of the agency to  
19 the extent that the employee is incapacitated ever to engage in any  
20 gainful employment, the employee is entitled to receive annually,  
21 and there shall be paid from the fund in equal monthly installments  
22 during his or her lifetime or until the disability sooner  
23 terminates, an amount equal to the base salary received by the  
24 employee in the preceding full twelve-month employment period.

1 Until a member has worked twelve months, the amount of monthly base  
2 salary shall be annualized for the purpose of determining the  
3 benefit.

4 (c) The superintendent of the agency may expend moneys from  
5 funds appropriated for the agency in payment of medical, surgical,  
6 laboratory, X-ray, hospital, ambulance and dental expenses and fees  
7 and reasonable costs and expenses incurred in the purchase of  
8 artificial limbs and other approved appliances which may be  
9 reasonably necessary for ~~any~~ a retirant who is temporarily,  
10 permanently or totally disabled by injury, illness or disease  
11 resulting from any occupational risk or hazard inherent in or  
12 peculiar to the service required of employees of the agency or  
13 incurred pursuant to or while the employee was ~~or shall be~~ engaged  
14 in the performance of duties as an employee of the agency.  
15 Whenever the superintendent determines that ~~any~~ a disabled retirant  
16 is ineligible to receive any of the benefits in this section at  
17 public expense, the superintendent shall, at the request of the  
18 disabled retirant, refer the matter to the board for hearing and  
19 final decision. In no case will the compensation rendered to  
20 health care providers for medical and hospital services exceed the  
21 then current rate schedule approved by the West Virginia Insurance  
22 Commission. Upon termination of employment and receipt of properly  
23 executed forms from the agency and the member, the board shall  
24 process the member's disability retirement benefit and commence

1 annuity payments as soon as administratively feasible.

2 (d) If a uniformed member, while in active service of the  
3 agency, becomes partially or totally disabled on a probable  
4 permanent basis to the extent the member cannot adequately perform  
5 the duties required of a member of the agency by any cause other  
6 than the result of habits, intemperance or willful misconduct of  
7 the member or caused by improper actions by the member, the member  
8 shall be awarded a Purple Heart by the Superintendent of the State  
9 Police and a Wounded in the Line of Duty registration by the  
10 Department of Motor Vehicles. A previously medically retired  
11 member who meets the same requirements shall, upon request, be  
12 awarded the Purple Heart by the Superintendent of the State Police  
13 and a Wounded in the Line of Duty registration by the Department of  
14 Motor Vehicles. The Superintendent of the State Police and the  
15 Commissioner of the Department of Motor Vehicles shall cause the  
16 awards to be made within ninety days of a retirant's departure from  
17 the agency or, when concerning a former medically discharged  
18 member, from the date of written request. Only members deemed at  
19 fault for their medical condition as a result of an internal  
20 investigation shall be denied the awards.

NOTE: The purpose of this bill is to provide for an award of the Purple Heart by the Superintendent of the State Police and a Wounded in the Line of Duty registration by the Department of Motor Vehicles to qualified, disabled state troopers.

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