Senate Bill No. 169

(By Senators Kessler (Mr. President) and Jenkins)

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[Introduced February 15, 2013; referred to the Committee on

Pensions; and then to the Committee on Finance.]

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FISCAL NOTE

A BILL to amend and reenact §5-10-25 of the Code of West Virginia,

1931, as amended, relating to the Public Employees Retirement

System; and preventing reduction of disability pensions at age

sixty-five.

Be it enacted by the Legislature of West Virginia:

That §5-10-25 of the Code of West Virginia, 1931, as amended,

be amended and reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-25. Disability retirement.

(a) Upon the application of a member of the retirement system,

or his or her present or past employing authority, any member who

is in the employ of a participating public employer or was in the

employ of a participating public employer on a date which is twelve

1 months or less from the date upon which the member became

2 incapacitated, who has ten or more years of credited service of

3 which three years is contributing service, and who becomes totally

4 and permanently incapacitated for employment, by reason of a

5 personal injury or disease, may be retired by the board if after a

6 medical examination of the member made by or under the direction of

7 a medical committee consisting of two physicians, one of whom shall

8 be named by the board, and one by the member, the medical committee

9 reports, in writing, to the board that the member is physically or

10 mentally totally incapacitated for employment, that the incapacity

11 will probably be permanent, and that the member should be retired.

12 In the event the two above-mentioned examining physicians do not

13 agree in their findings, then the board may, at its discretion,

14 appoint a third physician to examine the member and, based upon the

15 third physician's report in writing, the board may retire the

16 member. A member who was not in the employ of a participating

17 public employer on a date which is twelve months or less from the

18 date upon which the member became incapacitated may receive

19 disability retirement under the provisions of this subsection if,

20 in the opinion of the medical committee, the incapacity occurred

21 during the time that the member was employed by a participating

22 public employer and the incapacity otherwise qualifies the member

23 for retirement under this subsection.

1   (b) A member with less than ten years of credited service

2 shall have the service requirement provided in subsection (a) ~~above~~

3 of this section (including the requirement of three years

4 contributing service) waived in the event: (1) The board finds his

5 or her total and permanent disability to be the natural and

6 proximate result of a personal injury or disease arising out of and

7 in the course of his or her actual performance of duty in the

8 employ of a participating public employer; and (2) he or she is

9 receiving or has received workers' compensation benefits on account

10 of the physical or mental disability.

11   (c) For any member retiring and any member retired, as of

12 March 1, 1970, he or she shall receive a straight life annuity

13 computed according to section twenty-two ~~hereof~~ of this article and

14 he or she ~~shall have~~ has the right to elect an option provided in

15 section twenty-four ~~hereof~~ of this article: *Provided,* That his or

16 her straight life annuity ~~payable to his or her attainment of age~~

17 ~~sixty-five years~~ may not be less than fifty percent of his or her

18 final average salary: ~~and his or her straight life annuity payable~~

19 ~~from and after his or her attainment of age sixty-five years may~~

20 ~~not be less than twenty percent of his or her final average salary~~*:*

21 *Provided, however,* That his or her annuity ~~shall be~~ is subject to

22 section twenty-six ~~hereof~~ of this article.

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NOTE: The purpose of this bill is to prevent a reduction in the annuity of a person who retires with disability retirement at age sixty-five.

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