

FILED

2013 APR 19 PM 12: 51

OFFICE OF THE CLERK
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2802

(By Delegate(s) Pethel, Jones, Craig, Canterbury,
Kump, Lynch and Stowers)



Passed April 2, 2013

In effect ninety days from passage.

HB 2802

FILED

2013 APR 19 PM 12:51

WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2802

(BY DELEGATE(S) PETHTEL, JONES, CRAIG, CANTERBURY,
KUMP, LYNCH AND STOWERS)

[Passed April 2, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §16-5V-2, §16-5V-8, §16-5V-11, §16-5V-20, §16-5V-21 and §16-5V-24 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto two new sections, designated §16-5V-8a and §16-5V-35, all relating to the Emergency Medical Services Retirement System; modifying the definition of annual compensation as it relates to determining benefits; adding a definition for contributing service to this article; adding a definition for the terms retire and retirement to this

article; providing for correction of participating public employer errors by the board; providing eligibility requirements for commencement of benefits; specifying that the board must be in receipt of a request for estimation of benefits prior to providing a member with an explanation of their estimated gross monthly annuity and a retirement application; providing that a member shall have at least ten years of contributing service to qualify for nonduty related disability retirement; specifying that the total nonduty disability award received by a member shall be based on their average monthly compensation during the twelve month period immediately preceding the disability award; providing that all costs associated with disability benefit examinations shall be paid from the board's expense fund; providing that disability benefits shall cease on the first day of the month following termination of disability by the board; requiring annual disability recertification for a retirant who is less than sixty years of age during the first five years of retirement and once every three years thereafter; providing that if a member who is receiving a nonduty disability benefit dies the surviving spouse shall receive the average monthly compensation received by the member prior to

the disability award; and providing for the annuity calculation for a member who returns to covered employment after retirement.

Be it enacted by the Legislature of West Virginia:

That §16-5V-2, §16-5V-8, §16-5V-11, §16-5V-20, §16-5V-21 and §16-5V-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §16-5V-8a and §16-5V-35, all to read as follows:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-2. Definitions.

1 As used in this article, unless a federal law or regulation or
2 the context clearly requires a different meaning:

3 (a) "Accrued benefit" means on behalf of any member two
4 and six-tenths percent per year of the member's final average
5 salary for the first twenty years of credited service. Additionally,
6 two percent per year for twenty-one through twenty-five years
7 and one percent per year for twenty-six through thirty years will
8 be credited with a maximum benefit of sixty-seven percent. A
9 member's accrued benefit may not exceed the limits of Section

10 415 of the Internal Revenue Code and is subject to the provisions
11 of section twelve of this article.

12 (1) The board may upon the recommendation of the board's
13 actuary increase the employees' contribution rate to ten and
14 five-tenths percent should the funding of the plan not reach
15 seventy percent funded by July 1, 2012. The board shall decrease
16 the contribution rate to eight and one-half percent once the plan
17 funding reaches the seventy percent support objective as of any
18 later actuarial valuation date.

19 (2) Upon reaching the seventy-five percent actuarial funded
20 level, as of an actuarial valuation date, the board shall increase
21 the two and six-tenths percent to two and three-quarter percent
22 for the first twenty years of credited service. The maximum
23 benefit will also be increased from sixty-seven percent to
24 seventy percent.

25 (b) "Accumulated contributions" means the sum of all
26 retirement contributions deducted from the compensation of a
27 member, or paid on his or her behalf as a result of covered
28 employment, together with regular interest on the deducted
29 amounts.

30 (c) "Active military duty" means full-time active duty with
31 any branch of the Armed Forces of the United States, including
32 service with the National Guard or reserve military forces when
33 the member has been called to active full-time duty and has
34 received no compensation during the period of that duty from
35 any board or employer other than the Armed Forces.

36 (d) "Actuarial equivalent" means a benefit of equal value
37 computed upon the basis of the mortality table and interest rates
38 as set and adopted by the board in accordance with the
39 provisions of this article.

40 (e) "Annual compensation" means the wages paid to the
41 member during covered employment within the meaning of
42 Section 3401(a) of the Internal Revenue Code, but determined
43 without regard to any rules that limit the remuneration included
44 in wages based upon the nature or location of employment or
45 services performed during the plan year plus amounts excluded
46 under Section 414(h)(2) of the Internal Revenue Code and less
47 reimbursements or other expense allowances, cash or noncash
48 fringe benefits or both, deferred compensation and welfare
49 benefits. Annual compensation for determining benefits during

50 any determination period may not exceed the maximum
51 compensation allowed as adjusted for cost of living in
52 accordance with section seven, article ten-d, chapter five of this
53 code and Section 401(a)(17) of the Internal Revenue Code.

54 (f) "Annual leave service" means accrued annual leave.

55 (g) "Annuity starting date" means the first day of the month
56 for which an annuity is payable after submission of a retirement
57 application. For purposes of this subsection, if retirement income
58 payments commence after the normal retirement age,
59 "retirement" means the first day of the month following or
60 coincident with the latter of the last day the member worked in
61 covered employment or the member's normal retirement age and
62 after completing proper written application for "retirement" on
63 an application supplied by the board.

64 (h) "Board" means the Consolidated Public Retirement
65 Board.

66 (i) "Contributing service" or "contributory service" means
67 service rendered by a member while employed by a participating
68 public employer for which the member made contributions to the
69 plan.

70 (j) "County commission or political subdivision" has the
71 meaning ascribed to it in this code.

72 (k) "Covered employment" means either: (1) Employment
73 as a full-time emergency medical technician, emergency medical
74 technician/paramedic or emergency medical services/registered
75 nurse and the active performance of the duties required of
76 emergency medical services officers; or (2) the period of time
77 during which active duties are not performed but disability
78 benefits are received under this article; or (3) concurrent
79 employment by an emergency medical services officer in a job
80 or jobs in addition to his or her employment as an emergency
81 medical services officer where the secondary employment
82 requires the emergency medical services officer to be a member
83 of another retirement system which is administered by the
84 Consolidated Public Retirement Board pursuant to this code:
85 *Provided*, That the emergency medical services officer
86 contributes to the fund created in this article the amount
87 specified as the member's contribution in section eight of this
88 article.

89 (l) "Credited service" means the sum of a member's years of
90 service, active military duty, disability service and accrued
91 annual and sick leave service.

92 (m) "Dependent child" means either:

93 (1) An unmarried person under age eighteen who is:

94 (A) A natural child of the member;

95 (B) A legally adopted child of the member;

96 (C) A child who at the time of the member's death was
97 living with the member while the member was an adopting
98 parent during any period of probation; or

99 (D) A stepchild of the member residing in the member's
100 household at the time of the member's death; or

101 (2) Any unmarried child under age twenty-three:

102 (A) Who is enrolled as a full-time student in an accredited
103 college or university;

104 (B) Who was claimed as a dependent by the member for
105 federal income tax purposes at the time of the member's death;
106 and

107 (C) Whose relationship with the member is described in
108 paragraph (A), (B) or (C), subdivision (1) of this subsection.

109 (n) "Dependent parent" means the father or mother of the
110 member who was claimed as a dependent by the member for
111 federal income tax purposes at the time of the member's death.

112 (o) "Disability service" means service received by a
113 member, expressed in whole years, fractions thereof or both,
114 equal to one half of the whole years, fractions thereof, or both,
115 during which time a member receives disability benefits under
116 this article.

117 (p) "Early retirement age" means age forty-five or over and
118 completion of twenty years of contributory service.

119 (q) "Effective date" means January 1, 2008.

120 (r) "Emergency medical services officer" means an
121 individual employed by the state, county or other political
122 subdivision as a medical professional who is qualified to respond
123 to medical emergencies, aids the sick and injured and arranges
124 or transports to medical facilities, as defined by the West
125 Virginia Office of Emergency Medical Services. This definition
126 is construed to include employed ambulance providers and other
127 services such as law enforcement, rescue or fire department
128 personnel who primarily perform these functions and are not

129 provided any other credited service benefits or retirement plans.
130 These persons may hold the rank of emergency medical
131 technician/basic, emergency medical technician/paramedic,
132 emergency medical services/registered nurse, or others as
133 defined by the West Virginia Office of Emergency Medical
134 Services and the Consolidated Public Retirement Board.

135 (s) "Employer error" means an omission, misrepresentation
136 or violation of relevant provisions of the West Virginia Code or
137 of the West Virginia Code of State Rules or the relevant
138 provisions of both the West Virginia Code and of the West
139 Virginia Code of State Rules by the participating public
140 employer that has resulted in an underpayment or overpayment
141 of contributions required. A deliberate act contrary to the
142 provisions of this article by a participating public employer does
143 not constitute employer error.

144 (t) "Final average salary" means the average of the highest
145 annual compensation received for covered employment by the
146 member during any five consecutive plan years within the
147 member's last ten years of service while employed, prior to any
148 disability payment. If the member did not have annual

149 compensation for the five full plan years preceding the member's
150 attainment of normal retirement age and during that period the
151 member received disability benefits under this article, then "final
152 average salary" means the average of the monthly salary
153 determined paid to the member during that period as determined
154 under section nineteen of this article multiplied by twelve. "Final
155 average salary" does not include any lump sum payment for
156 unused, accrued leave of any kind or character.

157 (u) "Full-time employment" means permanent employment
158 of an employee by a participating public employer in a position
159 which normally requires twelve months per year service and
160 requires at least one thousand forty hours per year service in that
161 position.

162 (v) "Fund" means the West Virginia Emergency Medical
163 Services Retirement Fund created by this article.

164 (w) "Hour of service" means:

165 (1) Each hour for which a member is paid or entitled to
166 payment for covered employment during which time active
167 duties are performed. These hours shall be credited to the
168 member for the plan year in which the duties are performed; and

169 (2) Each hour for which a member is paid or entitled to
170 payment for covered employment during a plan year but where
171 no duties are performed due to vacation, holiday, illness,
172 incapacity including disability, layoff, jury duty, military duty,
173 leave of absence or any combination thereof and without regard
174 to whether the employment relationship has terminated. Hours
175 under this subdivision shall be calculated and credited pursuant
176 to West Virginia Division of Labor rules. A member will not be
177 credited with any hours of service for any period of time he or
178 she is receiving benefits under section nineteen or twenty of this
179 article; and

180 (3) Each hour for which back pay is either awarded or agreed
181 to be paid by the employing county commission or political
182 subdivision, irrespective of mitigation of damages. The same
183 hours of service shall not be credited both under subdivision (1)
184 or (2) of this subsection and under this subdivision. Hours under
185 this paragraph shall be credited to the member for the plan year
186 or years to which the award or agreement pertains, rather than
187 the plan year in which the award, agreement or payment is made.

188 (x) "Member" means a person first hired as an emergency
189 medical services officer by an employer which is a participating

190 public employer of the Public Employees Retirement System or
191 the Emergency Medical Services Retirement System after the
192 effective date of this article, as defined in subsection ~~(p)~~ (q) of
193 this section, or an emergency medical services officer of an
194 employer which is a participating public employer of the Public
195 Employees Retirement System first hired prior to the effective
196 date and who elects to become a member pursuant to this article.
197 A member shall remain a member until the benefits to which he
198 or she is entitled under this article are paid or forfeited.

199 (y) "Monthly salary" means the W-2 reportable
200 compensation received by a member during the month.

201 (z) "Normal form" means a monthly annuity which is one
202 twelfth of the amount of the member's accrued benefit which is
203 payable for the member's life. If the member dies before the sum
204 of the payments he or she receives equals his or her accumulated
205 contributions on the annuity starting date, the named beneficiary
206 shall receive in one lump sum the difference between the
207 accumulated contributions at the annuity starting date and the
208 total of the retirement income payments made to the member.

209 (aa) "Normal retirement age" means the first to occur of the
210 following:

211 (1) Attainment of age fifty years and the completion of
212 twenty or more years of regular contributory service, excluding
213 active military duty, disability service and accrued annual and
214 sick leave service;

215 (2) While still in covered employment, attainment of at least
216 age fifty years and when the sum of current age plus regular
217 contributory years of service equals or exceeds seventy years;

218 (3) While still in covered employment, attainment of at least
219 age sixty years and completion of ten years of regular
220 contributory service; or

221 (4) Attainment of age sixty-two years and completion of five
222 or more years of regular contributory service.

223 (bb) "Participating public employer" means any county
224 commission or political subdivision in the state which has
225 elected to cover its emergency medical services officers, as
226 defined in this article, under the West Virginia Emergency
227 Medical Services Retirement System.

228 (cc) "Political subdivision" means a county, city or town in
229 the state; any separate corporation or instrumentality established
230 by one or more counties, cities or towns, as permitted by law;

231 any corporation or instrumentality supported in most part by
232 counties, cities or towns; and any public corporation charged by
233 law with the performance of a governmental function and whose
234 jurisdiction is coextensive with one or more counties, cities or
235 towns: *Provided*, That any public corporation established under
236 section four, article fifteen, chapter seven of this code is
237 considered a political subdivision solely for the purposes of this
238 article.

239 (dd) "Plan" means the West Virginia Emergency Medical
240 Services Retirement System established by this article.

241 (ee) "Plan year" means the twelve-month period
242 commencing on January 1 of any designated year and ending the
243 following December 31.

244 (ff) "Public Employees Retirement System" means the West
245 Virginia Public Employee's Retirement System created by West
246 Virginia Code.

247 (gg) "Regular interest" means the rate or rates of interest per
248 annum, compounded annually, as the board adopts in accordance
249 with the provisions of this article.

250 (hh) "Required beginning date" means April 1 of the
251 calendar year following the later of: (1) The calendar year in

252 which the member attains age seventy and one-half; or (2) the
253 calendar year in which he or she retires or otherwise separates
254 from covered employment.

255 (ii) "Retirant" means any member who commences an
256 annuity payable by the plan.

257 (jj) "Retire" or "retirement" means a member's withdrawal
258 from the employ of a participating public employer and the
259 commencement of an annuity by the plan.

260 (kk) "Retirement income payments" means the monthly
261 retirement income payments payable under the plan.

262 (ll) "Spouse" means the person to whom the member is
263 legally married on the annuity starting date.

264 (mm) "Surviving spouse" means the person to whom the
265 member was legally married at the time of the member's death
266 and who survived the member.

267 (nn) "Totally disabled" means a member's inability to
268 engage in substantial gainful activity by reason of any medically
269 determined physical or mental impairment that can be expected
270 to result in death or that has lasted or can be expected to last for
271 a continuous period of not less than twelve months.

272 For purposes of this subsection:

273 (1) A member is totally disabled only if his or her physical
274 or mental impairment or impairments is so severe that he or she
275 is not only unable to perform his or her previous work as an
276 emergency medical services officer but also cannot, considering
277 his or her age, education and work experience, engage in any
278 other kind of substantial gainful employment which exists in the
279 state regardless of whether: (A) The work exists in the
280 immediate area in which the member lives; (B) a specific job
281 vacancy exists; or (C) the member would be hired if he or she
282 applied for work. For purposes of this article, substantial gainful
283 employment is the same definition as used by the United States
284 Social Security Administration.

285 (2) "Physical or mental impairment" is an impairment that
286 results from an anatomical, physiological or psychological
287 abnormality that is demonstrated by medically accepted clinical
288 and laboratory diagnostic techniques. The board may require
289 submission of a member's annual tax return for purposes of
290 monitoring the earnings limitation.

291 (oo) "Year of service" means a member shall, except in his
292 or her first and last years of covered employment, be credited

293 with years of service credit based upon the hours of service
294 performed as covered employment and credited to the member
295 during the plan year based upon the following schedule:

296 Hours of Service Year of Service Credited.

297 Less than 500 0

298 500 to 999 1/3

299 1,000 to 1,499 2/3

300 1,500 or more 1

301 During a member's first and last years of covered
302 employment, the member shall be credited with one twelfth of
303 a year of service for each month during the plan year in which
304 the member is credited with an hour of service for which
305 contributions were received by the fund. A member is not
306 entitled to credit for years of service for any time period during
307 which he or she received disability payments under section
308 nineteen or twenty of this article. Except as specifically
309 excluded, years of service include covered employment prior to
310 the effective date.

311 Years of service which are credited to a member prior to his
312 or her receipt of accumulated contributions upon termination of

313 employment pursuant to section eighteen of this article or
314 section thirty, article ten, chapter five of this code, shall be
315 disregarded for all purposes under this plan unless the member
316 repays the accumulated contributions with interest pursuant to
317 section eighteen of this article or has prior to the effective date
318 made the repayment pursuant to section eighteen, article ten,
319 chapter five of this code.

§16-5V-8. Members' contributions; employer contributions.

1 (a) There shall be deducted from the monthly salary of each
2 member and paid into the fund an amount equal to eight and
3 one-half percent of his or her monthly salary. An additional
4 amount shall be paid to the fund by the county commission or
5 political subdivision in which the member is employed in
6 covered employment in an amount determined by the board:
7 *Provided*, That in no year may the total of the employer
8 contributions provided in this section, to be paid by the county
9 commission or political subdivision, exceed ten and one-half
10 percent of the total payroll for the members in the employ of the
11 county commission or political subdivision.

12 (b) Any active member who has concurrent employment in
13 an additional job or jobs and the additional employment requires

14 the emergency medical services officer to be a member of
15 another retirement system which is administered by the
16 Consolidated Public Retirement Board pursuant to article ten-d,
17 chapter five of this code shall contribute to the fund the sum of
18 eight and one-half percent of his or her monthly salary earned as
19 an emergency medical services officer as well as the sum of
20 eight and one-half percent of his or her monthly salary earned
21 from any additional employment which additional employment
22 requires the emergency medical services officer to be a member
23 of another retirement system which is administered by the
24 Consolidated Public Retirement Board pursuant to article ten-d,
25 chapter five of this code. An additional percent of the monthly
26 salary of each member shall be paid to the fund by the
27 concurrent employer by which the member is employed in an
28 amount determined by the board: *Provided*, That in no year may
29 the total of the employer contributions provided in this section,
30 to be paid by the concurrent employer, exceed ten and one-half
31 percent of the payroll for the concurrent member employees.

32 (c) All required deposits shall be remitted to the board no
33 later than fifteen days following the end of the calendar month
34 for which the deposits are required. If the board upon the

35 recommendation of the board actuary finds that the benefits
36 provided by this article can be actuarially funded with a lesser
37 contribution, then the board shall reduce the required member
38 and employer contributions proportionally. Any county
39 commission or political subdivision which fails to make any
40 payment due the Emergency Medical Services Retirement Fund
41 by the fifteenth day following the end of each calendar month in
42 which contributions are due may be required to pay the actuarial
43 rate of interest lost on the total amount owed for each day the
44 payment is delinquent. Accrual of the loss of earnings owed by
45 the delinquent county commission or political subdivision
46 commences after the fifteenth day following the end of the
47 calendar month in which contributions are due and continues
48 until receipt of the delinquent amount. Interest compounds daily
49 and the minimum surcharge is \$50.

§16-5V-8a. Correction of errors; underpayments; overpayments.

1 (a) General rule: If any change or employer error in the
2 records of any participating public employer or the plan results
3 in any member, retirant or beneficiary receiving from the plan
4 more or less than he or she would have been entitled to receive

5 had the records been correct, the board shall correct the error. If
6 correction of the error occurs after the effective retirement date
7 of a retirant, and as far as is practicable, the board shall adjust
8 the payment of the benefit in a manner that the actuarial
9 equivalent of the benefit to which the retirant was correctly
10 entitled shall be paid.

11 (b) Underpayments: Any error resulting in an underpayment
12 to the retirement system of required contributions may be
13 corrected by the member or retirant remitting the required
14 employee contribution and the participating public employer
15 remitting the required employer contribution. Interest shall
16 accumulate in accordance with the Legislative Rule 162 CSR 7
17 concerning retirement board refund, reinstatement, retroactive
18 service, loan and employer error interest factors and any
19 accumulating interest owed on the employee and employer
20 contributions resulting from an employer error shall be the
21 responsibility of the participating public employer. The
22 participating public employer may remit total payment and the
23 employee reimburse the participating public employer through
24 payroll deduction over a period equivalent to the time period

25 during which the employer error occurred. If the correction of an
26 error involving an underpayment of required contributions to the
27 retirement system will result in increased payments to a retirant,
28 including increases to payments already made, any adjustments
29 shall be made only after the board receives full payment of all
30 required employee and employer contributions, including
31 interest.

32 (c) Overpayments: (1) When mistaken or excess employer
33 contributions, including any overpayments, have been made to
34 the retirement system by a participating public employer, due to
35 error or other reason, the board shall credit the participating
36 public employer with an amount equal to the erroneous
37 contributions, to be offset against the participating public
38 employer's future liability for employer contributions to the
39 system. Earnings or interest shall not be credited to the
40 employer.

41 (2) When mistaken or excess employee contributions,
42 including any overpayments, have been made to the retirement
43 system, due to error or other reason, the board shall have sole
44 authority for determining the means of return, offset or credit to

45 or for the benefit of the employee of the amounts, and may use
46 any means authorized or permitted under the provisions of
47 Section 401(a), et seq. of the Internal Revenue Code and
48 guidance issued thereunder applicable to governmental plans.
49 Alternatively, in its full and complete discretion, the board may
50 require the participating public employer to pay the employee
51 the amounts as wages, with the board crediting the participating
52 public employer with a corresponding amount to offset against
53 its future contributions to the plan: *Provided*, That the wages
54 paid to the employee shall not be considered compensation for
55 any purposes under this article. Earnings or interest shall not be
56 returned, offset, or credited under any of the means utilized by
57 the board for returning mistaken or excess employee
58 contributions, including any overpayments, to an employee.

§16-5V-11. Retirement; commencement of benefits.

1 (a) Except for duty disability retirement, no member may
2 retire before January 1, 2011.

3 (b) On or after the date a member attains early or normal
4 retirement age, a member may retire and commence to receive
5 retirement income payments on the first day of the calendar

6 month following termination of employment and receipt of his
7 or her written application for retirement in an amount as
8 provided under this article: *Provided*, That retirement income
9 payments under this plan are subject to the provisions of this
10 article. Upon receipt of a request for estimation of benefits, the
11 board shall promptly provide the member with an explanation of
12 his or her optional forms of retirement benefits and the estimated
13 gross monthly annuity. Upon receipt of properly executed
14 retirement application forms from the member, the board shall
15 process member's request for and commence payments as soon
16 as administratively feasible.

§16-5V-20. Awards and benefits for disability — Due to other causes.

1 (a) Any member with ten or more years of contributing
2 service and who during covered employment: (1) Has been or
3 becomes totally disabled from any cause other than those set
4 forth in section nineteen of this article and not due to vicious
5 habits, intemperance or willful misconduct on his or her part;
6 and (2) in the opinion of two physicians after medical
7 examination, one of whom shall be named by the board, he or
8 she is by reason of the disability unable to perform adequately

9 the duties required of an emergency medical services officer, is
10 entitled to receive and shall be paid from the fund in monthly
11 installments, the compensation set forth in, either subsection (b)
12 or (c) of this section.

13 (b) If the member is totally disabled, he or she shall receive
14 sixty-six and two-thirds percent of his or her average monthly
15 compensation for the twelve-month period immediately
16 preceding the disability award, or if the member has not worked
17 all twelve months during the twelve month period immediately
18 preceding the disability award, the average of the months in
19 which compensation was received for the twelve month period
20 shall be used.

21 (c) If the member remains totally disabled until attaining
22 sixty years of age, then the member shall receive the retirement
23 benefit provided in sections sixteen and seventeen of this article.

24 (d) The board shall propose legislative rules for
25 promulgation in accordance with the provisions of article three,
26 chapter twenty-nine-a of this code concerning member disability
27 payments so as to ensure that the payments do not exceed one
28 hundred percent of the average current salary for the position last
29 held by the member.

30 (e) The disability benefit payments will begin the first day
31 of the month following termination of employment and receipt
32 of the disability retirement application by the Consolidated
33 Public Retirement Board.

§16-5V-21. Same — Physical examinations; termination of disability.

1 (a) The board may require any member who has applied for
2 or is receiving disability benefits under this article to submit to
3 a physical examination, mental examination or both, by a
4 physician or physicians selected or approved by the board. All
5 costs incident to any examination by a board selected physician
6 shall be paid from the board's expense fund. The costs may
7 include hospital, laboratory, X-ray, medical and physicians' fees.
8 A report of the findings of any physician shall be submitted in
9 writing to the board for its consideration. If, from the report,
10 independent information, or from the report and any hearing on
11 the report, the board is of the opinion and finds that: (1) The
12 member has become reemployed as an emergency medical
13 services officer; (2) a physician who has examined the member
14 has found that considering the opportunities for emergency
15 medical services in West Virginia, the member could be so
16 employed as an emergency medical services officer; or (3) other

17 facts exist to demonstrate that the member is no longer totally
18 disabled, then the disability benefits shall cease the first day of
19 the month following board action.

20 (b) The board shall require recertification for a disabled
21 retirant, who has not attained age sixty, at least once each year
22 during the first five years following his or her retirement and at
23 least once in each three year period thereafter.

24 (c) If a retirant refuses to submit to a medical examination
25 or submit a statement by his or her physician certifying
26 continued disability in any period, his or her disability annuity
27 may be discontinued by the board until the retirant complies. If
28 the refusal continues for one year, all the retirant's rights in and
29 to the annuity may be revoked by the board.

**§16-5V-24. Awards and benefits to surviving spouse — When
member dies from nonservice-connected causes.**

1 (a) If a member who has been a member for at least ten
2 years, while in covered employment after the effective date of
3 this article, has died or dies from any cause other than those
4 specified in section twenty-three of this article and not due to
5 vicious habits, intemperance or willful misconduct on his or her
6 part, the fund shall pay annually in equal monthly installments

7 to the surviving spouse during his or her lifetime, a sum equal to
8 the greater of: (1) One half of the annual compensation received
9 in the preceding twelve-month employment period by the
10 deceased member; or (2) if the member dies after his or her early
11 or normal retirement age, the monthly amount which the spouse
12 would have received had the member retired the day before his
13 or her death, elected a one hundred percent joint and survivor
14 annuity with the spouse as the joint annuitant, and then died.
15 Where the member is receiving disability benefits under this
16 article at the time of his or her death, the average monthly
17 compensation received in the plan year prior to disability shall
18 be substituted for the annual compensation in subdivision (1) of
19 this subsection.

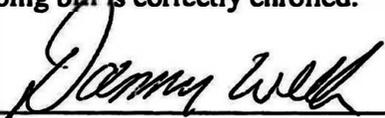
20 (b) Benefits for a surviving spouse received under this
21 section, or other sections of this article are in lieu of receipt of
22 any other benefits under this article for the spouse or any other
23 person or under the provisions of any other state retirement
24 system based upon the member's covered employment.

§16-5V-35. Return to covered employment by retirant.

1 The annuity of any member who retires under the provisions
2 of this article and who resumes service in covered employment

3 shall be suspended while the member continues in covered
4 employment. The monthly annuity payment for the month in
5 which the service resumes shall be pro-rated to the date of
6 commencement of service, and the member shall again become
7 a contributing member during resumption of service. At the
8 conclusion of resumed service in covered employment the
9 member shall have his or her annuity recalculated to take into
10 account the entirety of service in covered employment.

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



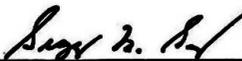
Chairman, House Committee



Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.



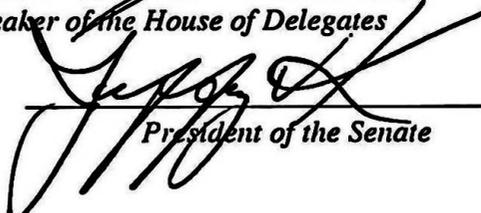
Clerk of the House of Delegates



Clerk of the Senate



Speaker of the House of Delegates



President of the Senate

The within is appended this the 19th
day of April, 2013.



Governor

PRESENTED TO THE GOVERNOR

APR 17 2013

Time 11:24 am