

1 ENROLLED

2 **Senate Bill No. 299**

3 (By Senators Gaunch and Trump)

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5 [Passed February 20, 2015; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §15-2A-9 and §15-2A-10 of the Code of West Virginia, 1931, as
11 amended, all relating to duty-related and nonduty-related disability retirement in the West
12 Virginia State Police Retirement System; and specifying that disability disbursements begin
13 the first day of the month following approval by the Consolidated Public Retirement Board
14 and the member’s termination of employment or as ordered by a court of competent
15 jurisdiction.

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

17 That §15-2A-9 and §15-2A-10 of the Code of West Virginia, 1931, as amended, be amended
18 and reenacted, all to read as follows:

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

20 **§15-2A-9. Awards and benefits for disability -- Incurred in performance of duty.**

21 (a) Any employee of the agency who has not yet entered retirement status on the basis of age
22 and service and who becomes partially disabled by injury, illness or disease resulting from any

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

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

14 (2) The sum of \$6,000. The first day of the month following the date in which the retirant
15 attains age fifty-five, the retirant shall receive the benefit provided in section six of this article as it
16 would apply to his or her final average salary based on earnings from the agency through the day
17 immediately preceding his or her disability. The recalculation of benefit upon a retirant attaining age
18 fifty-five shall be considered to be a retirement under the provisions of section six of this article for
19 purposes of determining the amount of annual annuity adjustment and for all other purposes of this
20 article: *Provided*, That a retirant who is partially disabled under this article may not, while in receipt
21 of benefits for partial disability, be employed as a law-enforcement officer: *Provided, however*, That
22 a retirant on a partial disability under this article may serve as an elected sheriff or appointed chief

1 of police in the state without a loss of disability retirement benefits as long as the elected or
2 appointed position is shown, to the satisfaction of the board, to require the performance of
3 administrative duties and functions only, as opposed to the full range of duties of a law-enforcement
4 officer.

5 (b) Any member who has not yet entered retirement status on the basis of age and service and
6 who becomes physically or mentally disabled by injury, illness or disease on a probable permanent
7 basis resulting from any occupational risk or hazard inherent in or peculiar to the services required
8 of employees of the agency or incurred pursuant to or while the employee was or is engaged in the
9 performance of his or her duties as an employee of the agency to the extent that the employee is
10 incapacitated ever to engage in any gainful employment, the employee is entitled to receive annually,
11 and there shall be paid from the fund in equal monthly installments during his or her lifetime or until
12 the disability sooner terminates, an amount equal to the base salary received by the employee in the
13 preceding full twelve-month employment period. Until a member has worked twelve months, the
14 amount of monthly base salary shall be annualized for the purpose of determining the benefit.

15 (c) Disability benefit payments made pursuant to subsection (a) or (b) of this section will
16 begin the first day of the month following board approval and termination of employment or as
17 ordered by a court of competent jurisdiction.

18 (d) The superintendent of the agency may expend moneys from funds appropriated for the
19 agency in payment of medical, surgical, laboratory, x-ray, hospital, ambulance and dental expenses
20 and fees and reasonable costs and expenses incurred in the purchase of artificial limbs and other
21 approved appliances which may be reasonably necessary for any retirant who is temporarily,
22 permanently or totally disabled by injury, illness or disease resulting from any occupational risk or

1 hazard inherent in or peculiar to the service required of employees of the agency or incurred pursuant
2 to or while the employee was or shall be engaged in the performance of duties as an employee of the
3 agency. Whenever the superintendent determines that any disabled retirant is ineligible to receive
4 any of the benefits in this section at public expense, the superintendent shall, at the request of the
5 disabled retirant, refer the matter to the board for hearing and final decision. In no case will the
6 compensation rendered to health care providers for medical and hospital services exceed the then
7 current rate schedule approved by the West Virginia Insurance Commission. Upon termination of
8 employment and receipt of properly executed forms from the agency and the member, the board shall
9 process the member's disability retirement benefit and commence annuity payments as soon as
10 administratively feasible.

11 **§15-2A-10. Same -- Due to other causes.**

12 (a) If any employee while in active service of the agency becomes partially or totally disabled
13 on a probable permanent basis to the extent that the employee cannot adequately perform the duties
14 required of an employee of the agency from any cause other than those set forth in the preceding
15 section and not due to vicious habits, intemperance or willful misconduct on his or her part, the
16 employee shall be retired by the board. There shall be paid annually to the retirant from the fund in
17 equal monthly installments, commencing on the date the retirant is retired and continuing during the
18 lifetime of the retirant or until the retirant attains the age of fifty-five; while in status of retirement
19 an amount equal to one-half the base salary received by the retirant in the preceding full twelve-
20 month period: *Provided*, That if the retirant had not been employed with the agency for twelve full
21 months prior to the disability, the amount of monthly base salary shall be annualized for the purpose
22 of determining the benefit.

1 (b) The first day of the month following the date in which the retirant attains age fifty-five,
2 the retirant shall receive the benefit provided in section six of this article as it would apply to his or
3 her final average salary based on earnings from the agency through the day immediately preceding
4 his or her disability. The recalculation of benefit upon a retirant attaining age fifty-five shall be
5 considered to be a retirement under the provisions of section six of this article for purposes of
6 determining the amount of annual annuity adjustment and for all other purposes of this article.

7 (c) Disability benefit payments made pursuant to this section will begin the first day of the
8 month following board approval and termination of employment or as ordered by a court of
9 competent jurisdiction: *Provided*, That in no circumstance may the disability payments begin prior
10 to termination of employment in order to avoid an in-service distribution.