

**Senate Bill No. 284**

(By Senator Wells)

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[Introduced January 8, 2014; referred to the Committee on  
Education; and then to the Committee on Finance.]  
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**FISCAL  
NOTE**

A BILL to amend and reenact §18A-4-10 of the Code of West Virginia,  
1931, as amended, relating generally to school personnel; and  
requiring that personal leave for illness and other causes for  
employees of county boards shall accrue monthly.

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

That §18A-4-10 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

**§18A-4-10. Personal leave for illness and other causes; leave  
banks; substitutes.**

(a) *Personal Leave.*

(1) ~~At the beginning of the employment term,~~ Any full-time  
employee of a county board is entitled annually to accrue ~~to~~ at

1 least one and one-half days personal leave for each employment month  
2 or major fraction thereof in the employee's employment term.  
3 Personal leave is accrued at the end of each pay period based on a  
4 ten month pay calendar or on the last workday for separating  
5 employees. Unused leave shall be accumulative without limitation  
6 and is transferable within the state. A change in job assignment  
7 during the school year does not affect the employee's rights or  
8 benefits.

9       (2) A regular full-time employee who is absent from assigned  
10 duties due to accident, sickness, death in the immediate family, or  
11 life threatening illness of the employee's spouse, parents or child,  
12 or other cause authorized or approved by the board, shall be paid  
13 the full salary from his or her regular budgeted salary  
14 appropriation during the period which the employee is absent, but  
15 not to exceed the total amount of leave ~~to which~~ the employee has  
16 accrued. ~~is entitled.~~

17       (3) Each employee is permitted to use three days of leave  
18 annually without regard to the cause for the absence. Personal  
19 leave without cause may not be used on consecutive work days unless  
20 authorized or approved by the employee's principal or immediate  
21 supervisor, as appropriate. The employee shall give notice of leave  
22 without cause to the principal or immediate supervisor at least  
23 twenty-four hours in advance, except that in the case of sudden and

1 unexpected circumstances, notice shall be given as soon as  
2 reasonably practicable. The principal or immediate supervisor may  
3 deny use of the day if, at the time notice is given, either fifteen  
4 percent of the employees or three employees, whichever is greater,  
5 under the supervision of the principal or immediate supervisor, have  
6 previously given notice of their intention to use that day for  
7 leave. Personal leave may not be used in connection with a  
8 concerted work stoppage or strike. Where the cause for leave  
9 originated prior to the beginning of the employment term, the  
10 employee shall be paid for time lost after the start of the  
11 employment term, but not to exceed the total amount of leave the  
12 employee has accrued. ~~If an employee uses personal leave which the~~  
13 ~~employee has not yet accumulated on a monthly basis and subsequently~~  
14 ~~leaves the employment, the employee is required to reimburse the~~  
15 ~~board for the salary or wages paid for the unaccumulated leave.~~

16 (4) The state board shall maintain a rule to restrict the  
17 payment of personal leave benefits and the charging of personal  
18 leave time used to an employee receiving a workers' compensation  
19 benefit from a claim filed against and billed to the county board  
20 by which the person is employed. If an employee is awarded this  
21 benefit, the employee shall receive personal leave compensation only  
22 to the extent the compensation is required, when added to the  
23 workers' compensation benefit, to equal the amount of compensation

1 regularly paid the employee. If personal leave compensation equal  
2 to the employee's regular pay is paid prior to the award of the  
3 workers' compensation benefit, the amount which, when added to the  
4 benefit, is in excess of the employee's regular pay shall be  
5 deducted from the employee's subsequent pay. The employee's accrued  
6 personal leave days shall be charged only for such days as equal the  
7 amount of personal leave compensation required to compensate the  
8 employee at the employee's regular rate of pay.

9 (5) The county board may establish reasonable rules for  
10 reporting and verification of absences for cause. If any error in  
11 reporting absences occurs, the county board may make necessary  
12 salary adjustments:

13 (A) In the next pay after the employee has returned to duty;  
14 or

15 (B) In the final pay if the absence occurs during the last  
16 month of the employment term.

17 (b) *Leave Banks.*

18 (1) Each county board shall establish a personal leave bank  
19 that is available to all school personnel. The board may establish  
20 joint or separate banks for professional personnel and school  
21 service personnel. Each employee may contribute up to two days of  
22 personal leave per school year. An employee may not be coerced or  
23 compelled to contribute to a personal leave bank.

1 (2) The personal leave bank shall be established and operated  
2 pursuant to a rule adopted by the county board. The rule:

3 (A) May limit the maximum number of days used by an employee;

4 (B) Shall limit the use of leave bank days to an active  
5 employee with fewer than five days accumulated personal leave who  
6 is absent from work due to accident or illness of the employee; and

7 (C) Shall prohibit the use of days to:

8 (I) Qualify for or add to service for any retirement system  
9 administered by the state; or

10 (ii) Extend insurance coverage pursuant to section thirteen,  
11 article sixteen, chapter five of this code.

12 (D) Shall require that each personal leave day contributed:

13 (I) Is deducted from the number of personal leave days to which  
14 the donor employee is entitled by this section;

15 (ii) Is not deducted from the personal leave days without cause  
16 to which a donor employee is entitled if sufficient general personal  
17 leave days are otherwise available to the donor employee;

18 (iii) Is credited to the receiving employee as one full  
19 personal leave day;

20 (iv) May not be credited for more or less than a full day by  
21 calculating the value of the leave according to the hourly wage of  
22 each employee; and

23 (v) May be used only for an absence due to the purpose for

1 which the leave was transferred. Any transferred days remaining  
2 when the catastrophic medical emergency ends revert back to the  
3 leave bank.

4 (3) The administration, subject to county board approval, may  
5 use its discretion as to the need for a substitute where limited  
6 absence may prevail, when an allowable absence does not:

7 (i) Directly affect the instruction of the students; or

8 (ii) Require a substitute employee because of the nature of the  
9 work and the duration of the cause for the absence.

10 (4) If funds in any fiscal year, including transfers, are  
11 insufficient to pay the full cost of substitutes for meeting the  
12 provisions of this section, the remainder shall be paid on or before  
13 August 31 from the budget of the next fiscal year.

14 (5) A county board may supplement the leave provisions in any  
15 manner it considers advisable in accordance with applicable rules  
16 of the state board and the provisions of this chapter and chapter  
17 eighteen of this code.

NOTE: The purpose of this bill is to require that full-time employees of county boards of education accrue personal leave on a monthly basis, with days accrued at the end of each pay period, and may only use personal leave up to the amount actually accrued.

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