

COMMITTEE SUBSTITUTE

for

H. B. 2796

(BY MR. SPEAKER, (MR. ARMSTEAD))

(Originating in the House Committee on the Judiciary)

[February 27, 2015]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-15b, relating to providing that certain state employees may be granted a leave of absence with pay while providing assistance as an essential member of an emergency aid provider during a declared state of emergency.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §15-5-15b, to read as follows:

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT.

**§15-5-15b. Paid leave for certain state officers and employees
during a declared state of emergency.**

1 (a) Any state employee who is designated an essential
2 member of an emergency aid provider may be granted leave
3 from his or her state employment with pay, for not more than
4 fifteen work days in each year, to provide disaster relief or
5 emergency services in areas of the state in which a state of
6 emergency has been declared. Leave shall be granted under this
7 section upon: (1) Designation of the employee as an essential
8 member by the chief executive officer or other officer or agent
9 of the emergency aid provider who has authority to act on its
10 behalf; and (2) approval of that employee's immediate supervi-
11 sor. Leave shall be granted without loss of pay, annual leave,
12 sick leave, earned overtime compensation, seniority, or compen-
13 satory time. The state shall compensate an employee granted
14 leave under this section at the employee's regular rate of pay for
15 those regular work hours during which the employee is absent
16 from his or her state employment. Any supervisor granting leave
17 to an employee for purposes of participating in disaster relief or

18 emergency services pursuant to this section shall make a report
19 to the Governor which includes the name of the employee and
20 the total cost, if any, to the employing agency attributable to the
21 temporary replacement of the employee granted leave in the
22 circumstance where replacement is necessary. The Governor
23 shall keep a record of the total cost reported and in no event may
24 the total cost for all state agencies exceed \$300,000: *Provided,*
25 That upon approval of the Governor and repayment of the cost
26 to the employing agency, from the Civil Contingent Fund, leave
27 may be granted in an excess of a total cost of \$300,000.

28 (b) Notwithstanding the provisions of this section to the
29 contrary, no person may be designated an essential member of
30 an emergency aid provider for purposes of this section, if the
31 person is employed by an emergency aid provider located in or
32 that customarily serves an area included within the state of
33 emergency.

34 (c) As used in this section:

35 (1) "Emergency aid provider" means an organization for
36 emergency services as defined by section two, article five,
37 chapter fifteen of this code or a volunteer fire department that is

38 providing emergency services during a state of emergency as a
39 result of the circumstances that resulted in the declaration of the
40 state of emergency;

41 (2) “Essential member” means a person designated by an
42 emergency aid provider whose services are needed to provide
43 emergency services due to the circumstances that resulted in the
44 declaration of the state of emergency;

45 (3) “State of emergency” means the situation existing after
46 the occurrence of a disaster or circumstance in which a state of
47 emergency has been declared by the Governor or by the Legisla-
48 ture pursuant to the provisions of section six of this article or in
49 which a major disaster declaration or emergency declaration has
50 been issued by the President of the United States.