

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 175

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

[BY REQUEST OF THE EXECUTIVE]

[Introduced June 17, 2019; Referred

to the Select Committee on Education Reform B]

1 A BILL to amend and reenact §18A-4-10 of the Code of West Virginia, 1931, as amended, relating
 2 to personal leave for county board of education employees; providing for accrual of
 3 personal leave at the end of each pay period; and providing bonus for four or fewer
 4 absences.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

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

1 (a) *Personal Leave.*

2 (1) At the beginning of the employment term, any full-time employee of a county board is
 3 entitled ~~annually~~ to at least one and one-half days personal leave for each employment month or
 4 major fraction thereof in the first one-half of the employee's employment term. Any full-time
 5 employee of a county board is entitled to at least one and one-half days personal leave for each
 6 employment month or major fraction thereof in the second one-half of the employee's employment
 7 term. Unused leave shall be accumulative without limitation and is transferable within the state. A
 8 change in job assignment during the school year does not affect the employee's rights or benefits.

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

14 (3) Each employee is permitted to use three days of leave annually without regard to the
 15 cause for the absence. Personal leave without cause may not be used on consecutive work days
 16 unless authorized or approved by the employee's principal or immediate supervisor, as
 17 appropriate. The employee shall give notice of leave without cause to the principal or immediate
 18 supervisor at least 24 hours in advance, except that in the case of sudden and unexpected
 19 circumstances, notice shall be given as soon as reasonably practicable. The principal or

20 immediate supervisor may deny use of the day if, at the time notice is given, either 15 percent of
21 the employees or three employees, whichever is greater, under the supervision of the principal or
22 immediate supervisor, have previously given notice of their intention to use that day for leave.
23 Personal leave may not be used in connection with a concerted work stoppage or strike. Where
24 the cause for leave originated prior to the beginning of the employment term, the employee shall
25 be paid for time lost after the start of the employment term, but not to exceed the total amount of
26 leave to which the employee is entitled. If an employee uses personal leave which the employee
27 has not yet accumulated on a monthly basis and subsequently leaves the employment, the
28 employee is required to reimburse the board for the salary or wages paid for the unaccumulated
29 leave.

30 (4) The state board shall maintain a rule to restrict the payment of personal leave benefits
31 and the charging of personal leave time used to an employee receiving a workers' compensation
32 benefit from a claim filed against and billed to the county board by which the person is employed.
33 If an employee is awarded this benefit, the employee shall receive personal leave compensation
34 only to the extent the compensation is required, when added to the workers' compensation
35 benefit, to equal the amount of compensation regularly paid the employee. If personal leave
36 compensation equal to the employee's regular pay is paid prior to the award of the workers'
37 compensation benefit, the amount which, when added to the benefit, is in excess of the
38 employee's regular pay shall be deducted from the employee's subsequent pay. The employee's
39 accrued personal leave days shall be charged only for such days as equal the amount of personal
40 leave compensation required to compensate the employee at the employee's regular rate of pay.

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

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

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

46 (b) *Leave Banks.*

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

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

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

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

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

58 (i) Qualify for or add to service for any retirement system administered by the state; or

59 (ii) Extend insurance coverage pursuant to §5-16-13 of this code.

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

61 (i) Is deducted from the number of personal leave days to which the donor employee is
62 entitled by this section;

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

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

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

68 (v) May be used only for an absence due to the purpose for which the leave was
69 transferred. Any transferred days remaining when the catastrophic medical emergency ends
70 revert back to the leave bank.

71 (3) The administration, subject to county board approval, may use its discretion as to the

72 need for a substitute where limited absence may prevail, when an allowable absence does not:

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

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

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

79 (5) A county board may supplement the leave provisions in any manner it considers
80 advisable in accordance with applicable rules of the state Board and the provisions of this chapter
81 and Chapter 18 of this code.

82 (c) (1) Any classroom teacher of a county board who has not utilized more than four
83 personal leave days during the 200-day employment term shall receive a bonus of \$1000 at the
84 end of the school year.

85 (2) If the appropriations to the Department of Education for this purpose are insufficient to
86 compensate all applicable classroom teachers, the Department of Education shall request a
87 supplemental appropriation in an amount sufficient to compensate all applicable employees. This
88 payment may not be counted as part of the final average salary for the purpose of calculating
89 retirement.

90 (d) The amendments to this section during the 2019 first extraordinary session of the
91 Legislature shall be effective for school years beginning on or after July 1, 2019, and the
92 provisions of this section existing immediately prior to the 2019 regular session of the Legislature
93 remain in effect for school years beginning prior to July 1, 2019.

NOTE: The purpose of this bill is to provide a minimum level of personal leave for county board of education employees and to compensate employees when personal leave is not taken.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.