

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2134

By Delegates Toney, Summers and Tully

[Introduced January 11, 2023; Referred to the
Committee on Pensions and Retirement then
Finance]

1 A BILL to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating to
 2 the use of accrued annual and sick leave for retirement service credit in the Teachers
 3 Retirement System.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan, limiting employer contribution.

1 (a) *Cost-sharing.* -- The director shall provide under any contract or contracts entered into
 2 under the provisions of this article that the costs of any group hospital and surgical insurance,
 3 group major medical insurance, group prescription drug insurance, group life and accidental death
 4 insurance benefit plan or plans shall be paid by the employer and employee.

5 (b) *Spouse and dependent coverage.* -- Each employee is entitled to have his or her
 6 spouse and dependents included in any group hospital and surgical insurance, group major
 7 medical insurance or group prescription drug insurance coverage to which the employee is
 8 entitled to participate: *Provided,* That the spouse and dependent coverage is limited to excess or
 9 secondary coverage for each spouse and dependent who has primary coverage from any other
 10 source. For purposes of this section, the term "primary coverage" means individual or group
 11 hospital and surgical insurance coverage or individual or group major medical insurance coverage
 12 or group prescription drug coverage in which the spouse or dependent is the named insured or
 13 certificate holder. For the purposes of this section, "dependent" includes an eligible employee's
 14 unmarried child or stepchild under the age of twenty-five if that child or stepchild meets the
 15 definition of a "qualifying child" or a "qualifying relative" in Section 152 of the Internal Revenue

16 Code. The director may require proof regarding spouse and dependent primary coverage and
17 shall adopt rules governing the nature, discontinuance, and resumption of any employee's
18 coverage for his or her spouse and dependents.

19 (c) *Continuation after termination.* -- If an employee participating in the plan is terminated
20 from employment involuntarily or in reduction of work force, the employee's insurance coverage
21 provided under this article shall continue for a period of three months at no additional cost to the
22 employee and the employer shall continue to contribute the employer's share of plan premiums for
23 the coverage. An employee discharged for misconduct shall may not be eligible for extended
24 benefits under this section. Coverage may be extended up to the maximum period of three
25 months, while administrative remedies contesting the charge of misconduct are pursued. If the
26 discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by
27 the employee. If the employee is again employed or recalled to active employment within twelve
28 months of his or her prior termination, he or she shall may not be considered a new enrollee and
29 may not be required to again contribute his or her share of the premium cost, if he or she had
30 already fully contributed such share during the prior period of employment.

31 (d) *Conversion of accrued annual and sick leave for extended insurance coverage upon*
32 *retirement for employees who elected to participate in the plan before July, 1988.* -- Except as
33 otherwise provided in subsection (g) of this section, when an employee participating in the plan,
34 who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire
35 before reaching the age of 65, or when a participating employee voluntarily retires as provided by
36 law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an
37 extension of the insurance coverage provided by this article, according to the following formulae:
38 The insurance coverage for a retired employee shall continue one additional month for every two
39 days of annual leave or sick leave, or both, which the employee had accrued as of the effective
40 date of his or her retirement. For a retired employee, his or her spouse and dependents, the
41 insurance coverage shall continue one additional month for every three days of annual leave or

42 sick leave, or both, which the employee had accrued as of the effective date of his or her
43 retirement.

44 *(e) Conversion of accrued annual and sick leave for extended insurance coverage upon*
45 *retirement for employees who elected to participate in the plan after June, 1988. --*

46 Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections
47 (g) and (l) of this section, when an employee participating in the plan who elected to participate in
48 the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age
49 of 65, or when the participating employee voluntarily retires as provided by law, that employee's
50 annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the
51 insurance provided by this article, for periods and scope of coverage determined according to the
52 following formulae: (1) One additional month of single retiree coverage for every two days of
53 annual leave or sick leave, or both, which the employee had accrued as of the effective date of his
54 or her retirement; or (2) one additional month of coverage for a retiree, his or her spouse and
55 dependents for every three days of annual leave or sick leave, or both, which the employee had
56 accrued as of the effective date of his or her retirement. The remaining premium cost shall be
57 borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an
58 employee who has been a participant under spouse or dependent coverage and who reenters the
59 plan within twelve months after termination of his or her prior coverage shall be considered to have
60 elected to participate in the plan as of the date of commencement of the prior coverage. For
61 purposes of this subsection, an employee shall not be considered a new employee after returning
62 from extended authorized leave on or after July 1, 1988.

63 *(f) Increased retirement benefits for retired employees with accrued annual and sick leave.*

64 -- In the alternative to the extension of insurance coverage through premium payment provided in
65 subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee
66 participating in the plan may be applied, on the basis of two days' retirement service credit for each
67 one day of accrued annual and sick leave, toward an increase in the employee's retirement

68 benefits with those days constituting additional credited service in computation of the benefits
69 under any state retirement system. ~~Provided, That for a person who first becomes a member of the~~
70 ~~Teachers Retirement System as provided in article seven-a, chapter eighteen of this code on or~~
71 ~~after July 1, 2015, accrued annual and sick leave of an employee participating in the plan may not~~
72 ~~be applied for retirement service credit~~ However, the additional credited service shall not be used
73 in meeting initial eligibility for retirement criteria, but only as additional service credited in excess
74 thereof.

75 (g) *Conversion of accrued annual and sick leave for extended insurance coverage upon*
76 *retirement for certain higher education employees.* – Except as otherwise provided in subsection
77 (l) of this section, when an employee, who is a higher education full-time faculty member employed
78 on an annual contract basis other than for twelve months, is compelled or required by law to retire
79 before reaching the age of 65, or when such a participating employee voluntarily retires as
80 provided by law, that employee's insurance coverage, as provided by this article, shall be
81 extended according to the following formulae: The insurance coverage for a retired higher
82 education full-time faculty member, formerly employed on an annual contract basis other than for
83 twelve months, shall continue beyond the effective date of his or her retirement one additional year
84 for each three and one-third years of teaching service, as determined by uniform guidelines
85 established by the University of West Virginia Board of Trustees and the board of directors of the
86 state college system, for individual coverage, or one additional year for each five years of teaching
87 service for family coverage.

88 (h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the
89 conditions of the "retired employee" definition in section two of this article, shall be eligible for
90 insurance coverage under the same terms and provisions of this article. The retired employee's
91 premium contribution for any such coverage shall be established by the finance board.

92 (i) *Retiree participation.* -- All retirees under the provisions of this article, including those
93 defined in section two of this article; those retiring prior to April 21, 1972; and those hereafter

94 retiring are eligible to obtain health insurance coverage. The retired employee's premium
95 contribution for the coverage shall be established by the finance board.

96 (j) *Surviving spouse and dependent participation.* -- A surviving spouse and dependents of
97 a deceased employee, who was either an active or retired employee participating in the plan just
98 prior to his or her death, are entitled to be included in any comprehensive group health insurance
99 coverage provided under this article to which the deceased employee was entitled, and the
100 spouse and dependents shall bear the premium cost of the insurance coverage. The finance
101 board shall establish the premium cost of the coverage.

102 (k) *Elected officials.* -- In construing the provisions of this section or any other provisions of
103 this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent
104 that elected public officials be provided any sick leave, annual leave or personal leave, and the
105 enactment of this section is based upon the fact and assumption that no statutory or inherent
106 authority exists extending sick leave, annual leave or personal leave to elected public officials and
107 the very nature of those positions preclude the arising or accumulation of any leave, so as to be
108 thereafter usable as premium paying credits for which the officials may claim extended insurance
109 benefits.

110 (l) *Participation of certain former employees.* -- An employee, eligible for coverage under
111 the provisions of this article who has twenty years of service with any agency or entity participating
112 in the public employees insurance program or who has been covered by the public employees
113 insurance program for twenty years may, upon leaving employment with a participating agency or
114 entity, continue to be covered by the program if the employee pays one hundred five percent of the
115 cost of retiree coverage: *Provided*, That the employee shall elect to continue coverage under this
116 subsection within two years of the date the employment with a participating agency or entity is
117 terminated.

118 (m) *Prohibition on conversion of accrued annual and sick leave for extended coverage*
119 *upon retirement for new employees who elect to participate in the plan after June, 2001.* -- Any

120 employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued
121 annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her
122 retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for
123 increased retirement benefits, as authorized by this section: *Provided*, That any person who has
124 participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection
125 if he or she becomes reemployed with an employer participating in the plan within two years
126 following his or her separation from employment and he or she elects to participate in the plan
127 upon his or her reemployment.

128 (n) *Prohibition on conversion of accrued years of teaching service for extended coverage*
129 *upon retirement for new employees who elect to participate in the plan July, 2009.* -- Any employee
130 hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of
131 teaching service toward the cost of premiums for extended insurance coverage upon his or her
132 retirement.

NOTE: The purpose of this bill is to allow accrued annual or sick leave to be used for retirement service credit in the Teachers Retirement System.

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