

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5087

By Delegates Barnhart, Toney, Shamblin, Ferrell,
Anderson, Hanshaw (Mr. Speaker), Holstein,
Fehrenbacher, Miller and Hornby

[Introduced January 25, 2024; 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 allowing a person who first becomes a member of the Teachers Retirement System on or
 3 after July 1, 2015, to apply his or her accrued annual and sick leave, on the basis of one
 4 day's retirement service credit for each two days of accrued annual and sick leave, toward
 5 an increase in his or her retirement benefits with those days constituting additional credited
 6 service in computation of the benefits under the Teachers 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 plans that shall be paid by the employer and
 2 employee.

3 (b) Spouse and dependent coverage. —(1) An employee is entitled to have his or her
 4 spouse and dependents included in any plan to which the employee is entitled to participate.

5 (2) The spouse and dependent coverage is limited to excess or secondary coverage for
 6 each spouse and dependent who has primary coverage from any other source. If an employee's
 7 spouse has health insurance available through an employer not defined in §5-16-2 of this code,
 8 then the employer may not cover any portion of premiums for the employee's spouse coverage,
 9 unless the employee adds his or her spouse to his or her coverage by paying the cost of the
 10 actuarial value of the plan: *Provided*, That this does not apply to spouses of retired employees or
 11 employers subject to §5-16-22 of this code. For purposes of this subsection, "actuarial value"
 12 means the value as recommended by healthcare actuaries under §5-16-5 of this code.

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

16 (c) Continuation after termination. — If an employee participating in the plan is terminated
17 from employment involuntarily or in reduction of work force, the employee's insurance coverage
18 provided under this article shall continue for a period of three months at no additional cost to the
19 employee and the employer shall continue to contribute the employer's share of plan premiums for
20 the coverage. An employee discharged for misconduct shall not be eligible for extended benefits
21 under this section. Coverage may be extended up to the maximum period of three months, while
22 administrative remedies contesting the charge of misconduct are pursued. If the discharge for
23 misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the
24 employee. If the employee is again employed or recalled to active employment within 12 months of
25 his or her prior termination, he or she shall not be considered a new enrollee and may not be
26 required to again contribute his or her share of the premium cost if he or she had already fully
27 contributed such share during the prior period of employment.

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

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

41 (e) Conversion of accrued annual and sick leave for extended insurance coverage upon
42 retirement for employees who elected to participate in the plan after June, 1988. —
43 Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections
44 (g) and (l) of this section, when an employee participating in the plan who elected to participate in
45 the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age
46 of 65, or when the participating employee voluntarily retires as provided by law, that employee's
47 annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the
48 insurance provided by this article, for periods and scope of coverage determined according to the
49 following formulae: (1) One additional month of single retiree coverage for every two days of
50 annual leave or sick leave, or both, which the employee had accrued as of the effective date of his
51 or her retirement; or (2) one additional month of coverage for a retiree, his or her spouse, and
52 dependents for every three days of annual leave or sick leave, or both, which the employee had
53 accrued as of the effective date of his or her retirement. The remaining premium cost shall be
54 borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an
55 employee who has been a participant under spouse or dependent coverage and who reenters the
56 plan within 12 months after termination of his or her prior coverage shall be considered to have
57 elected to participate in the plan as of the date of commencement of the prior coverage. For
58 purposes of this subsection, an employee shall not be considered a new employee after returning
59 from extended authorized leave on or after July 1, 1988.

60 (f) In the alternative to the extension of insurance coverage through premium payment
61 provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an
62 employee participating in the plan may be applied, on the basis of two days' retirement service
63 credit for each one day of accrued annual and sick leave, toward an increase in the employee's
64 retirement benefits with those days constituting additional credited service in computation of the

65 benefits under any state retirement system: *Provided*, That notwithstanding the provisions of §18-
66 7A-28e of this code, for a person who first becomes a member of the Teachers Retirement System
67 as provided in §18-7A-1 *et seq.* of this code on or after July 1, 2015, accrued annual and sick leave
68 of an employee participating in the plan ~~not be applied for retirement service credit~~ be applied, on
69 the basis of one day's retirement service credit for each two days of accrued annual and sick
70 leave, toward an increase in the employee's retirement benefits with those days constituting
71 additional credited service in computation of the benefits under the Teachers Retirement System.
72 Computation of service credit pursuant to this subsection for persons who first become a member
73 of the Teachers Retirement System on or after July 1, 2015, shall be made as set forth in West
74 Virginia Code of State Rules §162-4-4.12 except that the computation in West Virginia Code of
75 State Rules §162-4-4.12.2.a is the number of days of actual accrued unused sick and annual
76 leave multiplied by one: *Provided, however*, That the additional credited service shall not be used
77 in meeting initial eligibility for retirement criteria, but only as additional service credited in excess
78 thereof.

79 (g) Conversion of accrued annual and sick leave for extended insurance coverage upon
80 retirement for certain higher education employees. Except as otherwise provided in subsection (k)
81 of this section, when an employee, who is a higher education full-time faculty member employed
82 on an annual contract basis other than for 12 months, is compelled or required by law to retire
83 before reaching the age of 65, or when such a participating employee voluntarily retires as
84 provided by law, that employee's insurance coverage, as provided by this article, shall be
85 extended according to the following formulae: The insurance coverage for a retired higher
86 education full-time faculty member, formerly employed on an annual contract basis other than for
87 12 months, shall continue beyond the effective date of his or her retirement one additional year for
88 each three and one-third years of teaching service, as determined by uniform guidelines
89 established by the University of West Virginia Board of Trustees and the Board of Directors of the
90 State College System, for individual coverage, or one additional year for each five years of

91 teaching service for family coverage.

92 (h) Retiree participation. —All retired employees are eligible to obtain health insurance
93 coverage. The retired employee's premium contribution for the coverage shall be established by
94 the finance board.

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

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

109 (k) Participation of certain former employees. — An employee, eligible for coverage under
110 the provisions of this article who has 20 years of service with any agency or entity participating in
111 the public employees insurance program or who has been covered by the public employees
112 insurance program for 20 years may, upon leaving employment with a participating agency or
113 entity, continue to be covered by the program if the employee pays 105 percent of the cost of
114 retiree coverage: *Provided*, That the employee shall elect to continue coverage under this
115 subsection within two years of the date the employment with a participating agency or entity is
116 terminated.

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

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

NOTE: The purpose of this bill is to allow Tier II members of the Teachers Retirement System to apply accrued annual and sick leave, on the basis of one day's retirement service credit for each two days of accrued annual and sick leave, toward an increase in his or her retirement benefits with those days constituting additional credited service in computation of the benefits under 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.