

1 **H. B. 2101**

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3 (By Delegates Hamilton, Duke and Sumner)
4 [Introduced January 12, 2011; referred to the
5 Committee on Pensions and Retirement then Finance.]
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10 A BILL to amend and reenact §5-16-13 of the Code of West Virginia,
11 1931, as amended, relating to providing for the continuance of
12 medical coverage for the spouse of a deceased retired employee
13 for any period previously purchased with accumulated leave.

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

15 That §5-16-13 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

18 **§5-16-13. Payment of costs by employer and employee; spouse and**
19 **dependent coverage; involuntary employee termination**
20 **coverage; conversion of annual leave and sick leave**
21 **authorized for health or retirement benefits;**
22 **authorization for retiree participation; continuation**
23 **of health insurance for surviving dependents of**
24 **deceased employees; requirement of new health plan,**

1 **limiting employer contribution.**

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

8 (b) *Spouse and dependent coverage.* -- Each employee is
9 entitled to have his or her spouse and dependents included in any
10 group hospital and surgical insurance, group major medical
11 insurance or group prescription drug insurance coverage to which
12 the employee is entitled to participate. ~~Provided, That the~~ The
13 spouse and dependent coverage is limited to excess or secondary
14 coverage for each spouse and dependent who has primary coverage
15 from any other source. For purposes of this section: ~~the term~~
16 "primary

17 (1) "Primary coverage" means individual or group hospital and
18 surgical insurance coverage or individual or group major medical
19 insurance coverage or group prescription drug coverage in which the
20 spouse or dependent is the named insured or certificate holder.

21 ~~For the purposes of this section; "dependent"~~

22 "Dependent" includes an eligible employee's unmarried child or
23 stepchild under the age of twenty-five if that child or stepchild
24 meets the definition of a "qualifying child" or a "qualifying

1 relative" in Section 152 of the Internal Revenue Code. The
2 director may require proof regarding spouse and dependent primary
3 coverage and shall adopt rules governing the nature, discontinuance
4 and resumption of any employee's coverage for his or her spouse and
5 dependents.

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

24 (d) *Conversion of accrued annual and sick leave for extended*

1 *insurance coverage upon retirement for employees who elected to*
2 *participate in the plan before July, 1988.* -- Except as otherwise
3 provided in subsection (g) of this section, when an employee
4 participating in the plan, who elected to participate in the plan
5 before July 1, 1988, is compelled or required by law to retire
6 before reaching the age of sixty-five, or when a participating
7 employee voluntarily retires as provided by law, that employee's
8 accrued annual leave and sick leave, if any, shall be credited
9 toward an extension of the insurance coverage provided by this
10 article, according to the following formulae: The insurance
11 coverage for a retired employee shall continue one additional month
12 for every two days of annual leave or sick leave, or both, which
13 the employee had accrued as of the effective date of his or her
14 retirement. For a retired employee, his or her spouse and
15 dependents, the insurance coverage shall continue one additional
16 month for every three days of annual leave or sick leave, or both,
17 which the employee had accrued as of the effective date of his or
18 her retirement.

19 (e) *Conversion of accrued annual and sick leave for extended*
20 *insurance coverage upon retirement for employees who elected to*
21 *participate in the plan after June, 1988.* -- Notwithstanding
22 subsection (d) of this section, and except as otherwise provided in
23 subsections (g) and (l) of this section when an employee
24 participating in the plan who elected to participate in the plan on

1 and after July 1, 1988, is compelled or required by law to retire
2 before reaching the age of sixty-five, or when the participating
3 employee voluntarily retires as provided by law, that employee's
4 annual leave or sick leave, if any, shall be credited toward one
5 half of the premium cost of the insurance provided by this article,
6 for periods and scope of coverage determined according to the
7 following formulae: (1) One additional month of single retiree
8 coverage for every two days of annual leave or sick leave, or both,
9 which the employee had accrued as of the effective date of his or
10 her retirement; or (2) one additional month of coverage for a
11 retiree, his or her spouse and dependents for every three days of
12 annual leave or sick leave, or both, which the employee had accrued
13 as of the effective date of his or her retirement. The remaining
14 premium cost shall be borne by the retired employee if he or she
15 elects the coverage. For purposes of this subsection, an employee
16 who has been a participant under spouse or dependent coverage and
17 who reenters the plan within twelve months after termination of his
18 or her prior coverage shall be considered to have elected to
19 participate in the plan as of the date of commencement of the prior
20 coverage. For purposes of this subsection, an employee shall not
21 be considered a new employee after returning from extended
22 authorized leave on or after July 1, 1988.

23 (f) *Increased retirement benefits for retired employees with*
24 *accrued annual and sick leave.* -- In the alternative to the

1 extension of insurance coverage through premium payment provided in
2 subsections (d) and (e) of this section, the accrued annual leave
3 and sick leave of an employee participating in the plan may be
4 applied, on the basis of two days' retirement service credit for
5 each one day of accrued annual and sick leave, toward an increase
6 in the employee's retirement benefits with those days constituting
7 additional credited service in computation of the benefits under
8 any state retirement system. However, the additional credited
9 service shall not be used in meeting initial eligibility for
10 retirement criteria, but only as additional service credited in
11 excess. ~~thereof~~

12 (g) *Conversion of accrued annual and sick leave for extended*
13 *insurance coverage upon retirement for certain higher education*
14 *employees.* -- Except as otherwise provided in subsection (l) of
15 this section, when an employee, who is a higher education full-time
16 faculty member employed on an annual contract basis other than for
17 twelve months, is compelled or required by law to retire before
18 reaching the age of sixty-five, or when such a participating
19 employee voluntarily retires as provided by law, that employee's
20 insurance coverage, as provided by this article, shall be extended
21 according to the following formulae: The insurance coverage for a
22 retired higher education full-time faculty member, formerly
23 employed on an annual contract basis other than for twelve months,
24 shall continue beyond the effective date of his or her retirement

1 one additional year for each three and one-third years of teaching
2 service, as determined by uniform guidelines established by the
3 University of West Virginia Board of Trustees and the board of
4 directors of the state college system, for individual coverage, or
5 one additional year for each five years of teaching service for
6 "family" coverage.

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

13 (i) *Retiree participation.* -- All retirees under the
14 provisions of this article, including those defined in section two
15 of this article; those retiring prior to April 21, 1972; and those
16 hereafter retiring are eligible to obtain health insurance
17 coverage. The retired employee's premium contribution for the
18 coverage shall be established by the finance board.

19 (j) *Surviving spouse and dependent participation.* -- A
20 surviving spouse and dependents of a deceased employee, who was
21 either an active or retired employee participating in the plan just
22 prior to his or her death, are entitled to be included in any
23 comprehensive group health insurance coverage provided under this
24 article to which the deceased employee was entitled, and the spouse

1 and dependents shall bear the premium cost of the insurance
2 coverage. A surviving spouse of a deceased retired employee
3 maintains any extended coverage that was purchased by the
4 conversion of accrued annual and sick leave existing at the time of
5 the retired employee's death. The finance board shall establish the
6 premium cost of the coverage.

7 (k) *Elected officials.* -- In construing the provisions of this
8 section or any other provisions of this code, the Legislature
9 declares that it is not now nor has it ever been the Legislature's
10 intent that elected public officials be provided any sick leave,
11 annual leave or personal leave, and the enactment of this section
12 is based upon the fact and assumption that no statutory or inherent
13 authority exists extending sick leave, annual leave or personal
14 leave to elected public officials and the very nature of those
15 positions preclude the arising or accumulation of any leave ~~so as~~
16 ~~to be thereafter~~ usable as premium paying credits for which the
17 officials may claim extended insurance benefits.

18 (l) *Participation of certain former employees.* -- An employee,
19 eligible for coverage under the provisions of this article who has
20 twenty years of service with any agency or entity participating in
21 the public employees insurance program or who has been covered by
22 the public employees insurance program for twenty years may, upon
23 leaving employment with a participating agency or entity, continue
24 to be covered by the program if the employee pays one hundred five

1 percent of the cost of retiree coverage. ~~Provided, That the~~ The
2 employee shall elect to continue coverage under this subsection
3 within two years of the date the employment with a participating
4 agency or entity is terminated.

5 (m) *Prohibition on conversion of accrued annual and sick leave*
6 *for extended coverage upon retirement for new employees who elect*
7 *to participate in the plan after June, 2001.* -- Any employee hired
8 on or after July 1, 2001, who elects to participate in the plan may
9 not apply accrued annual or sick leave toward the cost of premiums
10 for extended insurance coverage upon his or her retirement. This
11 prohibition does not apply to the conversion of accrued annual or
12 sick leave for increased retirement benefits, as authorized by this
13 section. ~~Provided, That any~~ Any person who has participated in the
14 plan prior to July 1, 2001, is not a new employee for purposes of
15 this subsection if he or she becomes reemployed with an employer
16 participating in the plan within two years following his or her
17 separation from employment and he or she elects to participate in
18 the plan upon his or her reemployment.

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

1 retirement.

NOTE: The purpose of this bill is to provide for the continuance of medical coverage for the spouse of a deceased retired employee for any period previously purchased with accumulated leave.

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