

1 **H. B. 2121**

2
3 (By Delegate Rodighiero)

4 [Introduced January 12, 2011; referred to the
5 Committee on Veterans' Affairs and Homeland Security then
6 Finance.]

**FISCAL
NOTE**

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11 A BILL to amend and reenact §5-16-2 of the Code of West Virginia,
12 1931, as amended, relating to the West Virginia Public
13 Employees Insurance Act; and providing state health care
14 services for all active and inactive duty military personnel.

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

16 That §5-16-2 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

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

19 **§5-16-2. Definitions.**

20 The following words and phrases as used in this article,
21 unless a different meaning is clearly indicated by the context,
22 have the following meanings:

23 (1) "Agency" means the Public Employees Insurance Agency

1 created by this article.

2 (2) "Director" means the Director of the Public Employees
3 Insurance Agency created by this article.

4 (3) "Employee" means any person, including an elected officer,
5 who works regularly full-time in the service of the State of West
6 Virginia and, for the purpose of this article only, the term
7 "employee" also means any person, including an elected officer, who
8 works regularly full-time in the service of a county board of
9 education; a county, city or town in the state; a person serving in
10 the Armed Forces of the United States in the Army, Navy, Marine
11 Corps, Air Force, National Guard or Coast Guard as defined by the
12 laws of the United States and who are citizens and residents of
13 this state; any separate corporation or instrumentality established
14 by one or more counties, cities or towns, as permitted by law; any
15 corporation or instrumentality supported in most part by counties,
16 cities or towns; any public corporation charged by law with the
17 performance of a governmental function and whose jurisdiction is
18 coextensive with one or more counties, cities or towns; any
19 comprehensive community mental health center or comprehensive
20 mental retardation facility established, operated or licensed by
21 the Secretary of Health and Human Resources pursuant to section
22 one, article two-a, chapter twenty-seven of this code and which is
23 supported in part by state, county or municipal funds; any person
24 who works regularly full-time in the service of the Higher

1 Education Policy Commission, the West Virginia Council for
2 Community and Technical College Education or a governing board, as
3 defined in section two, article one, chapter eighteen-b of this
4 code; any person who works regularly full-time in the service of a
5 combined city-county health department created pursuant to article
6 two, chapter sixteen of this code; any person designated as a 21st
7 Century Learner Fellow pursuant to section eleven, article three,
8 chapter eighteen-a of this code; and any person who works as a
9 long-term substitute as defined in section one, article one,
10 chapter eighteen-a of this code in the service of a county board of
11 education: *Provided*, That a long-term substitute who is
12 continuously employed for at least one hundred thirty-three
13 instructional days during an instructional term, and until the end
14 of that instructional term, is eligible for the benefits provided
15 in this article until September 1 following that instructional
16 term: *Provided, however*, That a long-term substitute employed
17 fewer than one hundred thirty-three instructional days during an
18 instructional term is eligible for the benefits provided in this
19 article only during such time as he or she is actually employed as
20 a long-term substitute. On and after January 1, 1994, and upon
21 election by a county board of education to allow elected board
22 members to participate in the Public Employees Insurance Program
23 pursuant to this article, any person elected to a county board of
24 education shall be considered to be an "employee" during the term

1 of office of the elected member. Upon election by the state Board
2 of Education to allow appointed board members to participate in the
3 Public Employees Insurance Program pursuant to this article, any
4 person appointed to the state Board of Education is considered an
5 "employee" during the term of office of the appointed member:
6 *Provided further,* That the elected member of a county board of
7 education and the appointed member of the state Board of Education
8 shall pay the entire cost of the premium if he or she elects to be
9 covered under this article. Any matters of doubt as to who is an
10 employee within the meaning of this article shall be decided by the
11 director.

12 On or after the first day of July 1, 1997, a person shall be
13 considered an "employee" if that person meets the following
14 criteria:

15 (i) Participates in a job-sharing arrangement as defined in
16 section one, article one, chapter eighteen-a of this code;

17 (ii) Has been designated, in writing, by all other
18 participants in that job-sharing arrangement as the "employee" for
19 purposes of this section; and

20 (iii) Works at least one third of the time required for a
21 full-time employee.

22 (4) "Employer" means the State of West Virginia, its boards,
23 agencies, commissions, departments, institutions or spending units;
24 a county board of education; a county, city or town in the state;

1 any separate corporation or instrumentality established by one or
2 more counties, cities or towns, as permitted by law; any
3 corporation or instrumentality supported in most part by counties,
4 cities or towns; any public corporation charged by law with the
5 performance of a governmental function and whose jurisdiction is
6 coextensive with one or more counties, cities or towns; any
7 comprehensive community mental health center or comprehensive
8 mental retardation facility established, operated or licensed by
9 the Secretary of Health and Human Resources pursuant to section
10 one, article two-a, chapter twenty-seven of this code and which is
11 supported in part by state, county or municipal funds; a combined
12 city-county health department created pursuant to article two,
13 chapter sixteen of this code; and a corporation meeting the
14 description set forth in section three, article twelve, chapter
15 eighteen-b of this code that is employing a twenty-first Century
16 Learner Fellow pursuant to section eleven, article three, chapter
17 eighteen of this code but the corporation is not considered an
18 employer with respect to any employee other than a twenty-first
19 Century Learner Fellow. Any matters of doubt as to who is an
20 "employer" within the meaning of this article shall be decided by
21 the director. The term "employer" does not include within its
22 meaning the National Guard.

23 (5) "Finance board" means the Public Employees Insurance
24 Agency finance board created by this article.

1 (6) "Person" means any individual, company, association,
2 organization, corporation or other legal entity, including, but not
3 limited to, hospital, medical or dental service corporations;
4 health maintenance organizations or similar organization providing
5 prepaid health benefits; or individuals entitled to benefits under
6 the provisions of this article.

7 (7) "Plan", unless the context indicates otherwise, means the
8 medical indemnity plan, the managed care plan option or the group
9 life insurance plan offered by the agency.

10 (8) "Retired employee" means an employee of the state who
11 retired after April 29, 1971, and an employee of the Higher
12 Education Policy Commission, the Council for Community and
13 Technical College Education, a state institution of higher
14 education or a county board of education who retires on or after
15 April 21, 1972, and all additional eligible employees who retire on
16 or after the effective date of this article, meet the minimum
17 eligibility requirements for their respective state retirement
18 system and whose last employer immediately prior to retirement
19 under the state retirement system is a participating employer in
20 the state retirement system and in the Public Employees Insurance
21 Agency: *Provided*, That for the purposes of this article, the
22 employees who are not covered by a state retirement system, but who
23 are covered by a state-approved or state-contracted retirement
24 program or a system approved by the director, shall, in the case of

1 education employees, meet the minimum eligibility requirements of
2 the state Teachers Retirement System and in all other cases, meet
3 the minimum eligibility requirements of the Public Employees
4 Retirement System and may participate in the Public Employees
5 Insurance Agency as retired employees upon terms as the director
6 sets by rule as authorized in this article. Employers with
7 employees who are, or who are eligible to become, retired employees
8 under this article shall be mandatory participants in the Retiree
9 Health Benefit Trust Fund created pursuant to article sixteen-d of
10 this chapter. Nonstate employers may opt out of the West Virginia
11 other post-employment benefits plan of the Retiree Health Benefit
12 Trust Fund and elect to not provide benefits under the Public
13 Employees Insurance Agency to retirees of the nonstate employer,
14 but may do so only upon the written certification, under oath, of
15 an authorized officer of the employer that the employer has no
16 employees who are, or who are eligible to become, retired employees
17 and that the employer will defend and hold harmless the Public
18 Employees Insurance Agency from any claim by one of the employer's
19 past, present or future employees for eligibility to participate in
20 the Public Employees Insurance Agency as a retired employee. As a
21 matter of law, the Public Employees Insurance Agency shall not be
22 liable in any respect to provide plan benefits to a retired
23 employee of a nonstate employer which has opted out of the West
24 Virginia other post-employment benefits plan of the Retiree Health

1 Benefit Trust Fund pursuant to this section.

NOTE: The purpose of this bill is to provide state health care services for all active and inactive duty military personnel.

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