

1 **H. B. 2147**

2  
3 (By Delegates Sumner, Duke, Shaver and Romine)

4 [Introduced January 12, 2011; referred to the

5 Committee on Education then Finance.]

6 **FISCAL**  
7 **NOTE**

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10 A BILL to amend and reenact §18A-4-10d of the Code of West  
11 Virginia, 1931, as amended, relating to use of personal leave  
12 days by surviving spouse of a deceased employee of a school  
13 board in certain circumstances.

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

15 That §18A-4-10d of the Code of West Virginia, 1931, as  
16 amended, be amended and reenacted to read as follows:

17 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

18 **§18A-4-10d. Use of personal leave days by surviving spouse in**  
19 **certain circumstances.**

20 (a) For the purposes of this section, the following terms have  
21 the following meanings:

22 (1) "Surviving spouse" means an employee of a county board  
23 whose spouse was also employed by the same county board at the time

1 of his or her death; and

2 (2) "Deceased spouse" means a person who, at the time of his  
3 or her death, was employed by the same board of education as his or  
4 her spouse.

5 (b) Beginning January 1, 1999, a county board of education may  
6 credit a surviving spouse with any or all personal leave days to  
7 which the deceased spouse was entitled at the time of the death of  
8 the deceased spouse. ~~(c)~~ The provisions of this ~~section~~ subsection  
9 ~~only shall~~ apply only if all the following conditions are met:

10 (1) Both spouses were employed by the same county board of  
11 education at the time of the death of the deceased spouse;

12 (2) The deceased spouse had unused personal leave days which  
13 he or she was entitled to use;

14 (3) The surviving spouse is an active employee with less than  
15 five days accumulated personal leave;

16 (4) The death of the deceased spouse was by accident;

17 (5) It is determined by the county board, on evidence provided  
18 by a licensed physician, that the surviving spouse is physically  
19 disabled to work at the position held by the surviving spouse; and

20 (6) It is determined by the county board that the cause of the  
21 disability to the surviving spouse arose from the same accident  
22 that resulted in the death of the deceased spouse.

23 ~~(d)~~ (c) In cases where personal leave time has been  
24 transferred to a surviving spouse pursuant to subsection (b) of

1 this section, the county board periodically shall review the status  
2 of the surviving spouse and, upon a determination of the county  
3 board that the surviving spouse is able to work at his or her  
4 assigned position, any personal leave days credited to the  
5 surviving spouse pursuant to the terms of this section shall be  
6 extinguished.

7 (d) A county board of education may credit a surviving spouse  
8 with any or all personal leave days to which the deceased spouse  
9 was entitled at the time of the death of the deceased spouse. The  
10 provisions of this subsection only apply if all the following  
11 conditions are met:

12 (1) Both spouses were employed by the same county board of  
13 education at the time of the death of the deceased spouse;

14 (2) The deceased spouse had unused personal leave days which  
15 he or she was entitled to use;

16 (3) The surviving spouse is an active employee with less than  
17 five days accumulated personal leave; and

18 (4) The deceased spouse died after January 1, 2011.

19 (e) A surviving spouse entitled to credit for personal leave  
20 days pursuant to subsection (d) of this section may be paid a lump  
21 sum amount, at his or her option, for the accrued and unused amount  
22 of personal leave of the deceased spouse, at the deceased  
23 employee's usual rate of pay at the time of death, in lieu of  
24 receiving credit for personal leave days.

1       ~~(e)~~ (f) Personal leave days credited to the surviving spouse  
2 pursuant to this section may be used only for the purposes of this  
3 section and may not be used for any other purpose, including, but  
4 not limited to, the enhancement of retirement or health insurance  
5 benefits.

NOTE: The purpose of this bill is to allow a surviving spouse of an employee of a school board who dies while employed to receive credit for the deceased spouse's accrued and unused personal leave time if the surviving spouse is also an employee of the same school board. In lieu of credit, for personal leave, the surviving spouse may elect to receive a lump sum amount for the accrued and unused sick leave of the deceased spouse.

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