

**H. B. 2187**

(By Delegate Rodighiero)

[Introduced January 12, 2011; referred to the  
Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §5-16-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-16-27, all relating to including volunteer firefighters within the Public Employees Insurance Act and requiring the county commissions to pay either three-fourths or the full amount of premiums.

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

That §5-16-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §5-16-27, all to read as follows:

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

**§5-16-2. Definitions.**

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context,

1 have the following meanings:

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

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

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

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

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

10 (A) On or after July 1, 1997, a person shall be considered an  
11 "employee" if that person meets the following criteria:

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

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

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

19 (B) On or after July 1, 2011, a person working as a volunteer  
20 firefighter under article fifteen, chapter eight of this code, is  
21 considered an "employee" under this section.

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 21st Century Learner  
16 Fellow pursuant to section eleven, article three, chapter eighteen  
17 of this code but the corporation is not considered an employer with  
18 respect to any employee other than a 21st Century Learner Fellow.  
19 For purposes of this article the county commission in which a  
20 volunteer fire department is located are considered the "employer"  
21 of volunteer firefighters for the purposes of PEIA. Any matters of  
22 doubt as to who is an "employer" within the meaning of this article  
23 shall be decided by the director. The term "employer" does not  
24 include within its meaning the National Guard.

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

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

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

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

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

1 employee of a nonstate employer which has opted out of the West  
2 Virginia other post-employment benefits plan of the Retiree Health  
3 Benefit Trust Fund pursuant to this section.

4 **§5-16-27. Premiums for volunteer firefighters.**

5 Notwithstanding any provision of this code to the contrary,  
6 the county commission in which a volunteer fire department is  
7 located will pay either three-fourths or the full amount of  
8 premiums due to the Public Employees Insurance Agency for coverage  
9 of all volunteer firefighters in the county.

NOTE: The purpose of this bill is to the inclusion of  
volunteer firefighters within the Public Employees Insurance Act  
and requiring the county commissions to pay either three-fourths or  
the full amount of premiums.

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

§5-16-27 is new; therefore, it has been completely  
underscored.