

1 **Senate Bill No. 514**

2 (By Senators Wells and Barnes)

3 \_\_\_\_\_  
4 [Introduced March 13, 2013; referred to the Committee on  
5 Education; and then to the Committee on Finance.]

6 \_\_\_\_\_  
7 **FISCAL**  
8 **NOTE**

9  
10 A BILL to amend and reenact §18A-4-10 of the Code of West Virginia,  
11 1931, as amended, relating generally to school personnel; and  
12 requiring that personal leave for illness and other causes for  
13 employees of county boards shall accrue monthly.

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

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

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

18 **§18A-4-10. Personal leave for illness and other causes; leave**  
19 **banks; substitutes.**

20 (a) *Personal Leave.*

21 (1) ~~At the beginning of the employment term,~~ Any full-time  
22 employee of a county board is entitled annually to accrue ~~to~~ at  
23 least one and one-half days personal leave for each employment

1 month or major fraction thereof in the employee's employment term.  
2 Personal leave is accrued at the end of each pay period based on a  
3 ten month pay calendar or on the last workday for separating  
4 employees. Unused leave shall be accumulative without limitation  
5 and is transferable within the state. A change in job assignment  
6 during the school year does not affect the employee's rights or  
7 benefits.

8 (2) A regular full-time employee who is absent from assigned  
9 duties due to accident, sickness, death in the immediate family, or  
10 life threatening illness of the employee's spouse, parents or  
11 child, or other cause authorized or approved by the board, shall be  
12 paid the full salary from his or her regular budgeted salary  
13 appropriation during the period which the employee is absent, but  
14 not to exceed the total amount of leave ~~to which~~ the employee has  
15 accrued. ~~is entitled.~~

16 (3) Each employee is permitted to use three days of leave  
17 annually without regard to the cause for the absence. Personal  
18 leave without cause may not be used on consecutive work days unless  
19 authorized or approved by the employee's principal or immediate  
20 supervisor, as appropriate. The employee shall give notice of  
21 leave without cause to the principal or immediate supervisor at  
22 least twenty-four hours in advance, except that in the case of  
23 sudden and unexpected circumstances, notice shall be given as soon  
24 as reasonably practicable. The principal or immediate supervisor

1 may deny use of the day if, at the time notice is given, either  
2 fifteen percent of the employees or three employees, whichever is  
3 greater, under the supervision of the principal or immediate  
4 supervisor, have previously given notice of their intention to use  
5 that day for leave. Personal leave may not be used in connection  
6 with a concerted work stoppage or strike. Where the cause for  
7 leave originated prior to the beginning of the employment term, the  
8 employee shall be paid for time lost after the start of the  
9 employment term, but not to exceed the total amount of leave the  
10 employee has accrued. ~~If an employee uses personal leave which the~~  
11 ~~employee has not yet accumulated on a monthly basis and~~  
12 ~~subsequently leaves the employment, the employee is required to~~  
13 ~~reimburse the board for the salary or wages paid for the~~  
14 ~~unaccumulated leave.~~

15 (4) The state board shall maintain a rule to restrict the  
16 payment of personal leave benefits and the charging of personal  
17 leave time used to an employee receiving a workers' compensation  
18 benefit from a claim filed against and billed to the county board  
19 by which the person is employed. If an employee is awarded this  
20 benefit, the employee shall receive personal leave compensation  
21 only to the extent the compensation is required, when added to the  
22 workers' compensation benefit, to equal the amount of compensation  
23 regularly paid the employee. If personal leave compensation equal  
24 to the employee's regular pay is paid prior to the award of the

1 workers' compensation benefit, the amount which, when added to the  
2 benefit, is in excess of the employee's regular pay shall be  
3 deducted from the employee's subsequent pay. The employee's  
4 accrued personal leave days shall be charged only for such days as  
5 equal the amount of personal leave compensation required to  
6 compensate the employee at the employee's regular rate of pay.

7 (5) The county board may establish reasonable rules for  
8 reporting and verification of absences for cause. If any error in  
9 reporting absences occurs, the county board may make necessary  
10 salary adjustments:

11 (A) In the next pay after the employee has returned to duty;  
12 or

13 (B) In the final pay if the absence occurs during the last  
14 month of the employment term.

15 (b) *Leave Banks.*

16 (1) Each county board shall establish a personal leave bank  
17 that is available to all school personnel. The board may establish  
18 joint or separate banks for professional personnel and school  
19 service personnel. Each employee may contribute up to two days of  
20 personal leave per school year. An employee may not be coerced or  
21 compelled to contribute to a personal leave bank.

22 (2) The personal leave bank shall be established and operated  
23 pursuant to a rule adopted by the county board. The rule:

24 (A) May limit the maximum number of days used by an employee;

1 (B) Shall limit the use of leave bank days to an active  
2 employee with fewer than five days accumulated personal leave who  
3 is absent from work due to accident or illness of the employee; and

4 (C) Shall prohibit the use of days to:

5 (i) Qualify for or add to service for any retirement system  
6 administered by the state; or

7 (ii) Extend insurance coverage pursuant to section thirteen,  
8 article sixteen, chapter five of this code.

9 (D) Shall require that each personal leave day contributed:

10 (i) Is deducted from the number of personal leave days to  
11 which the donor employee is entitled by this section;

12 (ii) Is not deducted from the personal leave days without  
13 cause to which a donor employee is entitled if sufficient general  
14 personal leave days are otherwise available to the donor employee;

15 (iii) Is credited to the receiving employee as one full  
16 personal leave day;

17 (iv) May not be credited for more or less than a full day by  
18 calculating the value of the leave according to the hourly wage of  
19 each employee; and

20 (v) May be used only for an absence due to the purpose for  
21 which the leave was transferred. Any transferred days remaining  
22 when the catastrophic medical emergency ends revert back to the  
23 leave bank.

24 (3) The administration, subject to county board approval, may

1 use its discretion as to the need for a substitute where limited  
2 absence may prevail, when an allowable absence does not:

3 (i) Directly affect the instruction of the students; or

4 (ii) Require a substitute employee because of the nature of  
5 the work and the duration of the cause for the absence.

6 (4) If funds in any fiscal year, including transfers, are  
7 insufficient to pay the full cost of substitutes for meeting the  
8 provisions of this section, the remainder shall be paid on or  
9 before August 31 from the budget of the next fiscal year.

10 (5) A county board may supplement the leave provisions in any  
11 manner it considers advisable in accordance with applicable rules  
12 of the state board and the provisions of this chapter and chapter  
13 eighteen of this code.

NOTE: The purpose of this bill is to require that full-time employees of county boards of education accrue personal leave on a monthly basis, with days accrued at the end of each pay period, and may only use personal leave up to the amount actually accrued.

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