

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4254**

5 (By Delegates Armstead, Mr. Speaker (Mr. Miley), Ashley, Cadle,
6 Westfall, McCuskey, Butler, Manchin, Walters, Boggs and E.
7 Nelson)

8 [Passed March 7, 2014; in effect from passage.]

9
10 AN ACT to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §15-5-15b, relating
12 to providing that certain state employees may be granted a
13 leave of absence with pay while providing assistance as an
14 essential member of an emergency aid provider during a
15 declared state of emergency.

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

17 That the Code of West Virginia, 1931, as amended, be amended
18 by adding thereto a new section, designated §15-5-15b, to read as
19 follows:

20 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY**

21 **MANAGEMENT.**

22 **§15-5-15b. Paid leave for certain state officers and employees**
23 **during a declared state of emergency.**

1 (a) Any state employee who is designated an essential member
2 of an emergency aid provider may be granted leave from his or her
3 state employment with pay, for not more than fifteen work days in
4 each year, to provide disaster relief or emergency services in
5 areas of the state in which a state of emergency has been declared.
6 Leave shall be granted under this section upon: (1) Designation of
7 the employee as an essential member by the chief executive officer
8 or other officer or agent of the emergency aid provider who has
9 authority to act on its behalf; and (2) approval of that employee's
10 immediate supervisor. Leave shall be granted without loss of pay,
11 annual leave, sick leave, earned overtime compensation, seniority
12 or compensatory time. The state shall compensate an employee
13 granted leave under this section at the employee's regular rate of
14 pay for those regular work hours during which the employee is
15 absent from his or her state employment. Any supervisor granting
16 leave to an employee for purposes of participating in disaster
17 relief or emergency services pursuant to this section shall make a
18 report to the Governor which includes the name of the employee and
19 the total cost, if any, to the employing agency attributable to the
20 temporary replacement of the employee granted leave in the
21 circumstance where replacement is necessary. The Governor shall
22 keep a record of the total cost reported and in no event may the
23 total cost for all state agencies exceed \$300,000: *Provided*, That
24 upon approval of the Governor and repayment of the cost to the

1 employing agency, from the Civil Contingent Fund, leave may be
2 granted in an excess of a total cost of \$300,000.

3 (b) Notwithstanding the provisions of this section to the
4 contrary, no person may be designated an essential member of an
5 emergency aid provider for purposes of this section, if the person
6 is employed by an emergency aid provider located in or that
7 customarily serves an area included within the state of emergency.

8 (c) As used in this section:

9 (1) "Emergency aid provider" means a local organization for
10 emergency services as defined by section two, article five, chapter
11 fifteen of this code or a volunteer fire department that is
12 providing emergency services during a state of emergency as a
13 result of the circumstances that resulted in the declaration of the
14 state of emergency;

15 (2) "Essential member" means a person designated by an
16 emergency aid provider whose services are needed to provide
17 emergency services due to the circumstances that resulted in the
18 declaration of the state of emergency;

19 (3) "State of emergency" means the situation existing after
20 the occurrence of a disaster or circumstance in which a state of
21 emergency has been declared by the Governor or by the Legislature
22 pursuant to the provisions of section six of this article or in
23 which a major disaster declaration or emergency declaration has
24 been issued by the President of the United States.

1 (d) The provisions of this section enacted during 2014 regular
2 session of the Legislature shall be in effect retroactive to
3 January 1, 2014.