

H. B. 2244

(By Delegate Rodighiero)

[Introduced January 23, 2015; referred to the

Committee on Banking and Insurance then Finance.]

**FISCAL
NOTE**

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

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 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, have the following meanings:

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

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

1 (3) "Employee" means any person, including an elected officer, who works regularly full-time
2 in the service of the State of West Virginia and, for the purpose of this article only, the term
3 "employee" also means any person, including an elected officer, who works regularly full-time in
4 the service of a county board of education; a county, city or town in the state; a person serving in the
5 Armed Forces of the United States in the Army, Navy, Marine Corps, Air Force, National Guard or
6 Coast Guard as defined by the laws of the United States and who are citizens and residents of this
7 state; any separate corporation or instrumentality established by one or more counties, cities or
8 towns, as permitted by law; any corporation or instrumentality supported in most part by counties,
9 cities or towns; any public corporation charged by law with the performance of a governmental
10 function and whose jurisdiction is coextensive with one or more counties, cities or towns; any
11 comprehensive community mental health center or comprehensive mental retardation facility
12 established, operated or licensed by the Secretary of Health and Human Resources pursuant to
13 section one, article two-a, chapter twenty-seven of this code and which is supported in part by state,
14 county or municipal funds; any person who works regularly full-time in the service of the Higher
15 Education Policy Commission, the West Virginia Council for Community and Technical College
16 Education or a governing board, as defined in section two, article one, chapter eighteen-b of this
17 code; any person who works regularly full-time in the service of a combined city-county health
18 department created pursuant to article two, chapter sixteen of this code; any person designated as a
19 21st Century Learner Fellow pursuant to section eleven, article three, chapter eighteen-a of this code;
20 and any person who works as a long-term substitute as defined in section one, article one, chapter
21 eighteen-a of this code in the service of a county board of education: *Provided*, That a long-term
22 substitute who is continuously employed for at least one hundred thirty-three instructional days

1 during an instructional term, and until the end of that instructional term, is eligible for the benefits
2 provided in this article until September 1 following that instructional term: *Provided, however,* That
3 a long-term substitute employed fewer than one hundred thirty-three instructional days during an
4 instructional term is eligible for the benefits provided in this article only during such time as he or
5 she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election
6 by a county board of education to allow elected board members to participate in the Public
7 Employees Insurance Program pursuant to this article, any person elected to a county board of
8 education shall be considered to be an "employee" during the term of office of the elected member.
9 Upon election by the State Board of Education to allow appointed board members to participate in
10 the Public Employees Insurance Program pursuant to this article, any person appointed to the State
11 Board of Education is considered an "employee" during the term of office of the appointed member:
12 *Provided further,* That the elected member of a county board of education and the appointed member
13 of the State Board of Education shall pay the entire cost of the premium if he or she elects to be
14 covered under this article. Any matters of doubt as to who is an employee within the meaning of this
15 article shall be decided by the director.

16 On or after July 1, 1997, a person shall be considered an "employee" if that person meets the
17 following criteria:

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

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

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

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

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

20 (6) "Person" means any individual, company, association, organization, corporation or other
21 legal entity, including, but not limited to, hospital, medical or dental service corporations; health
22 maintenance organizations or similar organization providing prepaid health benefits; or individuals

1 entitled to benefits under the provisions of this article.

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

4 (8) "Retired employee" means an employee of the state who retired after April 29, 1971, and
5 an employee of the Higher Education Policy Commission, the Council for Community and Technical
6 College Education, a state institution of higher education or a county board of education who retires
7 on or after April 21, 1972, and all additional eligible employees who retire on or after the effective
8 date of this article, meet the minimum eligibility requirements for their respective state retirement
9 system and whose last employer immediately prior to retirement under the state retirement system
10 is a participating employer in the state retirement system and in the Public Employees Insurance
11 Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a
12 state retirement system, but who are covered by a state-approved or state-contracted retirement
13 program or a system approved by the director, shall, in the case of education employees, meet the
14 minimum eligibility requirements of the state Teachers Retirement System and in all other cases,
15 meet the minimum eligibility requirements of the Public Employees Retirement System and may
16 participate in the Public Employees Insurance Agency as retired employees upon terms as the
17 director sets by rule as authorized in this article. Employers with employees who are, or who are
18 eligible to become, retired employees under this article shall be mandatory participants in the Retiree
19 Health Benefit Trust Fund created pursuant to article sixteen-d of this chapter. Nonstate employers
20 may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit
21 Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to
22 retirees of the nonstate employer, but may do so only upon the written certification, under oath, of

1 an authorized officer of the employer that the employer has no employees who are, or who are
2 eligible to become, retired employees and that the employer will defend and hold harmless the Public
3 Employees Insurance Agency from any claim by one of the employer's past, present or future
4 employees for eligibility to participate in the Public Employees Insurance Agency as a retired
5 employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any
6 respect to provide plan benefits to a retired employee of a nonstate employer which has opted out
7 of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund
8 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.