

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2170

FISCAL  
NOTE

2015 Carryover

(BY DELEGATE RODIGHIERO)

[Introduced January 13, 2016; referred to the  
Committee on Banking and Insurance then Finance.]

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

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

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

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

1 **§5-16-2. Definitions.**

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

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

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

7 (3) "Employee" means any person, including an elected officer, who works regularly full  
 8 time in the service of the State of West Virginia and, for the purpose of this article only, the term  
 9 "employee" also means any person, including an elected officer, who works regularly full time in  
 10 the service of a county board of education; a county, city or town in the state; any separate  
 11 corporation or instrumentality established by one or more counties, cities or towns, as permitted  
 12 by law; any corporation or instrumentality supported in most part by counties, cities or towns; any  
 13 public corporation charged by law with the performance of a governmental function and whose  
 14 jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive  
 15 community mental health center or comprehensive mental retardation facility established,

16 operated or licensed by the Secretary of Health and Human Resources pursuant to section one,  
17 article two-a, chapter twenty-seven of this code and which is supported in part by state, county or  
18 municipal funds; any person who works regularly full time in the service of the Higher Education  
19 Policy Commission, the West Virginia Council for Community and Technical College Education  
20 or a governing board, as defined in section two, article one, chapter eighteen-b of this code; any  
21 person who works regularly full time in the service of a combined city-county health department  
22 created pursuant to article two, chapter sixteen of this code; any person designated as a 21st  
23 Century Learner Fellow pursuant to section eleven, article three, chapter eighteen-a of this code;  
24 and any person who works as a long-term substitute as defined in section one, article one, chapter  
25 eighteen-a of this code in the service of a county board of education: *Provided, That a long-term*  
26 *substitute who is continuously employed for at least one hundred thirty-three instructional days*  
27 *during an instructional term, and until the end of that instructional term, is eligible for the benefits*  
28 *provided in this article until September 1, following that instructional term: Provided, however,*  
29 *That a long-term substitute employed fewer than one hundred thirty-three instructional days*  
30 *during an instructional term is eligible for the benefits provided in this article only during such time*  
31 *as he or she is actually employed as a long-term substitute. ~~On and after January 1, 1994, and~~*  
32 *Upon election by a county board of education to allow elected board members to participate in*  
33 *the Public Employees Insurance Program pursuant to this article, any person elected to a county*  
34 *board of education shall be considered to be an "employee" during the term of office of the elected*  
35 *member. Upon election by the state Board of Education to allow appointed board members to*  
36 *participate in the Public Employees Insurance Program pursuant to this article, any person*  
37 *appointed to the state Board of Education is considered an "employee" during the term of office of*  
38 *the appointed member: Provided further, That the elected member of a county board of*  
39 *education and the appointed member of the state Board of Education shall pay the entire cost of*

40 the premium if he or she elects to be covered under this article. Any matters of doubt as to who  
41 is an employee within the meaning of this article shall be decided by the director.

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

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

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

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

49 (B) On or after July 1, 2015, a person working as a volunteer firefighter under article fifteen,  
50 chapter eight of this code, is considered an "employee" under this section.

51 (4) "Employer" means the State of West Virginia, its boards, agencies, commissions,  
52 departments, institutions or spending units; a county board of education; a county, city or town in  
53 the state; any separate corporation or instrumentality established by one or more counties, cities  
54 or towns, as permitted by law; any corporation or instrumentality supported in most part by  
55 counties, cities or towns; any public corporation charged by law with the performance of a  
56 governmental function and whose jurisdiction is coextensive with one or more counties, cities or  
57 towns; any comprehensive community mental health center or comprehensive mental retardation  
58 facility established, operated or licensed by the Secretary of Health and Human Resources  
59 pursuant to section one, article two-a, chapter twenty-seven of this code and which is supported  
60 in part by state, county or municipal funds; a combined city-county health department created  
61 pursuant to article two, chapter sixteen of this code; and a corporation meeting the description set  
62 forth in section three, article twelve, chapter eighteen-b of this code that is employing a 21st  
63 Century Learner Fellow pursuant to section eleven, article three, chapter eighteen of this code

64 but the corporation is not considered an employer with respect to any employee other than a 21st  
65 Century Learner Fellow. For purposes of this article the county commission in which a volunteer  
66 fire department is located are considered the "employer" of volunteer firefighters for the purposes  
67 of PEIA. Any matters of doubt as to who is an "employer" within the meaning of this article shall  
68 be decided by the director. The term "employer" does not include within its meaning the National  
69 Guard.

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

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

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

78 (8) "Retired employee" means an employee of the state who retired after April 29, 1971,  
79 and an employee of the Higher Education Policy Commission, the Council for Community and  
80 Technical College Education, a state institution of higher education or a county board of education  
81 who retires on or after April 21, 1972, and all additional eligible employees who retire on or after  
82 the effective date of this article, meet the minimum eligibility requirements for their respective  
83 state retirement system and whose last employer immediately prior to retirement under the state  
84 retirement system is a participating employer in the state retirement system and in the Public  
85 Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees  
86 who are not covered by a state retirement system, but who are covered by a state-approved or  
87 state-contracted retirement program or a system approved by the director, shall, in the case of

88 education employees, meet the minimum eligibility requirements of the state Teachers Retirement  
89 System and in all other cases, meet the minimum eligibility requirements of the Public Employees  
90 Retirement System and may participate in the Public Employees Insurance Agency as retired  
91 employees upon terms as the director sets by rule as authorized in this article. Employers with  
92 employees who are, or who are eligible to become, retired employees under this article shall be  
93 mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to article  
94 sixteen-d of this chapter. Nonstate employers may opt out of the West Virginia other  
95 post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide  
96 benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but  
97 may do so only upon the written certification, under oath, of an authorized officer of the employer  
98 that the employer has no employees who are, or who are eligible to become, retired employees  
99 and that the employer will defend and hold harmless the Public Employees Insurance Agency  
100 from any claim by one of the employer's past, present or future employees for eligibility to  
101 participate in the Public Employees Insurance Agency as a retired employee. As a matter of  
102 law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan  
103 benefits to a retired employee of a nonstate employer which has opted out of the West Virginia  
104 other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this  
105 section.

1 **§5-16-27. Premiums for volunteer firefighters.**

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