

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2244

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, relating  
 2 to the West Virginia Public Employees Insurance Act; and providing state health care  
 3 services for all active and inactive duty military personnel.

*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 to read as follows:

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

**§5-16-2. Definitions.**

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

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

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

6 (3) "Employee" means any person, including an elected officer, who works regularly full-  
 7 time in the service of the State of West Virginia and, for the purpose of this article only, the term  
 8 "employee" also means any person, including an elected officer, who works regularly full-time in  
 9 the service of a county board of education; a county, city or town in the state; a person serving in  
 10 the Armed Forces of the United States in the Army, Navy, Marine Corps, Air Force, National  
 11 Guard or Coast Guard as defined by the laws of the United States and who are citizens and  
 12 residents of this state; any separate corporation or instrumentality established by one or more  
 13 counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most  
 14 part by counties, cities or towns; any public corporation charged by law with the performance of  
 15 a governmental function and whose jurisdiction is coextensive with one or more counties, cities  
 16 or towns; any comprehensive community mental health center or comprehensive mental

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

41 Board of Education shall pay the entire cost of the premium if he or she elects to be covered under  
42 this article. Any matters of doubt as to who is an employee within the meaning of this article  
43 shall be decided by the director.

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

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

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

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

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 twenty-  
63 first Century Learner Fellow pursuant to section eleven, article three, chapter eighteen of this  
64 code but the corporation is not considered an employer with respect to any employee other than

65 a twenty-first Century Learner Fellow. Any matters of doubt as to who is an "employer" within  
66 the meaning of this article shall be decided by the director. The term "employer" does not include  
67 within its meaning the National Guard.

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

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

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

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

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