

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4043

FISCAL
NOTE

BY DELEGATE STEELE

[Introduced January 08, 2020; Referred to the Committee
on Banking and Insurance then Finance]

1 A BILL to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating
 2 to preventing state, county and municipal agencies from covering any portions of Public
 3 Employee Insurance Act premiums for an employee’s spouse.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-13. Payment of costs by employer and employee; spouse and dependent coverage; involuntary employee termination coverage; conversion of annual leave and sick leave authorized for health or retirement benefits; authorization for retiree participation; continuation of health insurance for surviving dependents of deceased employees; requirement of new health plan, limiting employer contribution.

1 (a) *Cost-sharing.* -- The director shall provide under any contract or contracts entered into
 2 under the provisions of this article that the costs of any group hospital and surgical insurance,
 3 group major medical insurance, group prescription drug insurance, group life and accidental death
 4 insurance benefit plan or plans shall be paid by the employer and employee.

5 (b) *Spouse and dependent coverage.* -- Each employee is entitled to have his or her
 6 spouse and dependents included in any group hospital and surgical insurance, group major
 7 medical insurance or group prescription drug insurance coverage to which the employee is
 8 entitled to participate: *Provided,* That the spouse and dependent coverage is limited to excess or
 9 secondary coverage for each spouse and dependent who has primary coverage from any other
 10 source: *Provided further, That state, county and municipal agencies may not cover any portion of*
 11 *premiums for an employee’s spouse.* For purposes of this section, the term “primary coverage”
 12 means individual or group hospital and surgical insurance coverage or individual or group major
 13 medical insurance coverage or group prescription drug coverage in which the spouse or
 14 dependent is the named insured or certificate holder. For the purposes of this section,
 15 “dependent” includes an eligible employee's unmarried child or stepchild under the age of 25 if

16 that child or stepchild meets the definition of a “qualifying child” or a “qualifying relative” in Section
17 152 of the Internal Revenue Code. The director may require proof regarding spouse and
18 dependent primary coverage and shall adopt rules governing the nature, discontinuance and
19 resumption of any employee's coverage for his or her spouse and dependents.

20 (c) *Continuation after termination.* -- If an employee participating in the plan is terminated
21 from employment involuntarily or in reduction of work force, the employee's insurance coverage
22 provided under this article shall continue for a period of three months at no additional cost to the
23 employee and the employer shall continue to contribute the employer's share of plan premiums
24 for the coverage. An employee discharged for misconduct shall not be eligible for extended
25 benefits under this section. Coverage may be extended up to the maximum period of three
26 months, while administrative remedies contesting the charge of misconduct are pursued. If the
27 discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed
28 by the employee. If the employee is again employed or recalled to active employment within 12
29 months of his or her prior termination, he or she shall not be considered a new enrollee and may
30 not be required to again contribute his or her share of the premium cost, if he or she had already
31 fully contributed such share during the prior period of employment.

32 (d) *Conversion of accrued annual and sick leave for extended insurance coverage upon*
33 *retirement for employees who elected to participate in the plan before July, 1988.* -- Except as
34 otherwise provided in subsection (g) of this section, when an employee participating in the plan,
35 who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire
36 before reaching the age of 65, or when a participating employee voluntarily retires as provided by
37 law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an
38 extension of the insurance coverage provided by this article, according to the following formulae:
39 The insurance coverage for a retired employee shall continue one additional month for every two
40 days of annual leave or sick leave, or both, which the employee had accrued as of the effective
41 date of his or her retirement. For a retired employee, his or her spouse and dependents, the

42 insurance coverage shall continue one additional month for every three days of annual leave or
43 sick leave, or both, which the employee had accrued as of the effective date of his or her
44 retirement.

45 (e) *Conversion of accrued annual and sick leave for extended insurance coverage upon*
46 *retirement for employees who elected to participate in the plan after June, 1988. --*
47 Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections
48 (g) and (l) of this section, when an employee participating in the plan who elected to participate
49 in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the
50 age of 65, or when the participating employee voluntarily retires as provided by law, that
51 employee's annual leave or sick leave, if any, shall be credited toward one half of the premium
52 cost of the insurance provided by this article, for periods and scope of coverage determined
53 according to the following formulae: (1) One additional month of single retiree coverage for every
54 two days of annual leave or sick leave, or both, which the employee had accrued as of the
55 effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or
56 her spouse and dependents for every three days of annual leave or sick leave, or both, which the
57 employee had accrued as of the effective date of his or her retirement. The remaining premium
58 cost shall be borne by the retired employee if he or she elects the coverage. For purposes of this
59 subsection, an employee who has been a participant under spouse or dependent coverage and
60 who reenters the plan within 12 months after termination of his or her prior coverage shall be
61 considered to have elected to participate in the plan as of the date of commencement of the prior
62 coverage. For purposes of this subsection, an employee shall not be considered a new employee
63 after returning from extended authorized leave on or after July 1, 1988.

64 (f) *Increased retirement benefits for retired employees with accrued annual and sick leave.*

65 -- In the alternative to the extension of insurance coverage through premium payment provided in
66 subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee
67 participating in the plan may be applied, on the basis of two days' retirement service credit for

68 each one day of accrued annual and sick leave, toward an increase in the employee's retirement
69 benefits with those days constituting additional credited service in computation of the benefits
70 under any state retirement system: *Provided*, That for a person who first becomes a member of
71 the Teachers Retirement System as provided in §18-7A-1 *et seq.* of this code on or after July 1,
72 2015, accrued annual and sick leave of an employee participating in the plan may not be applied
73 for retirement service credit. However, the additional credited service shall not be used in meeting
74 initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

75 (g) *Conversion of accrued annual and sick leave for extended insurance coverage upon*
76 *retirement for certain higher education employees.* – Except as otherwise provided in subsection
77 (l) of this section, when an employee, who is a higher education full-time faculty member
78 employed on an annual contract basis other than for 12 months, is compelled or required by law
79 to retire before reaching the age of 65, or when such a participating employee voluntarily retires
80 as provided by law, that employee's insurance coverage, as provided by this article, shall be
81 extended according to the following formulae: The insurance coverage for a retired higher
82 education full-time faculty member, formerly employed on an annual contract basis other than for
83 12, shall continue beyond the effective date of his or her retirement one additional year for each
84 three and one-third years of teaching service, as determined by uniform guidelines established
85 by the University of West Virginia Board of Trustees and the board of directors of the state college
86 system, for individual coverage, or one additional year for each five years of teaching service for
87 family coverage.

88 (h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the
89 conditions of the "retired employee" definition in §5-16-2 of this code, shall be eligible for insurance
90 coverage under the same terms and provisions of this article. The retired employee's premium
91 contribution for any such coverage shall be established by the finance board.

92 (i) *Retiree participation.* -- All retirees under the provisions of this article, including those
93 defined in §5-16-2 of this code; those retiring prior to April 21, 1972; and those hereafter retiring

94 are eligible to obtain health insurance coverage. The retired employee's premium contribution for
95 the coverage shall be established by the finance board.

96 (j) *Surviving spouse and dependent participation.* -- A surviving spouse and dependents
97 of a deceased employee, who was either an active or retired employee participating in the plan
98 just prior to his or her death, are entitled to be included in any comprehensive group health
99 insurance coverage provided under this article to which the deceased employee was entitled, and
100 the spouse and dependents shall bear the premium cost of the insurance coverage. The finance
101 board shall establish the premium cost of the coverage.

102 (k) *Elected officials.* -- In construing the provisions of this section or any other provisions
103 of this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent
104 that elected public officials be provided any sick leave, annual leave or personal leave, and the
105 enactment of this section is based upon the fact and assumption that no statutory or inherent
106 authority exists extending sick leave, annual leave or personal leave to elected public officials and
107 the very nature of those positions preclude the arising or accumulation of any leave, so as to be
108 thereafter usable as premium paying credits for which the officials may claim extended insurance
109 benefits.

110 (l) *Participation of certain former employees.* -- An employee, eligible for coverage under
111 the provisions of this article who has 20 years of service with any agency or entity participating in
112 the public employees insurance program or who has been covered by the public employees
113 insurance program for 20 years may, upon leaving employment with a participating agency or
114 entity, continue to be covered by the program if the employee pays 105 percent of the cost of
115 retiree coverage: *Provided*, That the employee shall elect to continue coverage under this
116 subsection within two years of the date the employment with a participating agency or entity is
117 terminated.

118 (m) *Prohibition on conversion of accrued annual and sick leave for extended coverage*
119 *upon retirement for new employees who elect to participate in the plan after June, 2001.* -- Any

120 employee hired on or after July 1, 2001, who elects to participate in the plan may not apply
121 accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon
122 his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick
123 leave for increased retirement benefits, as authorized by this section: *Provided*, That any person
124 who has participated in the plan prior to July 1, 2001, is not a new employee for purposes of this
125 subsection if he or she becomes reemployed with an employer participating in the plan within two
126 years following his or her separation from employment and he or she elects to participate in the
127 plan upon his or her reemployment.

128 (n) *Prohibition on conversion of accrued years of teaching service for extended coverage*
129 *upon retirement for new employees who elect to participate in the plan July, 2009. -- Any*
130 employee hired on or after July 1, 2009, who elects to participate in the plan may not apply
131 accrued years of teaching service toward the cost of premiums for extended insurance coverage
132 upon his or her retirement.

NOTE: The purpose of this bill is to prevent state, county or municipal agencies from covering any portion of PEIA premiums for a spouse.

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