

H.B. 2209

FILED

2001 APR 30 P 4: 43

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

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**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 2209**

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)  
[By Request of the Executive]

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Passed April 14, 2001

In Effect Ninety Days from Passage

**FILED**

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**H. B. 2209**

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)

[BY REQUEST OF THE EXECUTIVE]

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[Passed April 14, 2001; in effect ninety days from passage.]

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AN ACT to amend and reenact section thirteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the public employees insurance agency; prohibiting the conversion of accrued annual and sick leave for extended insurance coverage upon retirement for covered employees hired after a certain date; and exempting certain employees who are rehired from the prohibition.

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

That section thirteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

FILED

Enr. H. B. 2209]

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**§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  
2 contract or contracts entered into under the provisions of this  
3 article that the costs of any group hospital and surgical insur-  
4 ance, group major medical insurance, group prescription drug  
5 insurance, group life and accidental death insurance benefit  
6 plan or plans shall be paid by the employer and employee.

7       (b) *Spouse and dependent coverage.* — Each employee is  
8 entitled to have his or her spouse and dependents, as defined by  
9 the rules of the public employees insurance agency, included in  
10 any group hospital and surgical insurance, group major medical  
11 insurance or group prescription drug insurance coverage to  
12 which the employee is entitled to participate: *Provided*, That the  
13 spouse and dependent coverage is limited to excess or second-  
14 ary coverage for each spouse and dependent who has primary  
15 coverage from any other source. For purposes of this section,  
16 the term “primary coverage” means individual or group hospital  
17 and surgical insurance coverage or individual or group major  
18 medical insurance coverage or group prescription drug cover-  
19 age in which the spouse or dependent is the named insured or  
20 certificate holder. The director may require proof regarding  
21 spouse and dependent primary coverage and shall adopt rules  
22 governing the nature, discontinuance and resumption of any  
23 employee’s coverage for his or her spouse and dependents.

24       (c) *Continuation after termination.* — If an employee  
25 participating in the plan is terminated from employment

26 involuntarily or in reduction of work force, the employee's  
27 insurance coverage provided under this article shall continue for  
28 a period of three months at no additional cost to the employee  
29 and the employer shall continue to contribute the employer's  
30 share of plan premiums for the coverage. An employee dis-  
31 charged for misconduct shall not be eligible for extended  
32 benefits under this section. Coverage may be extended up to the  
33 maximum period of three months, while administrative  
34 remedies contesting the charge of misconduct are pursued. If  
35 the discharge for misconduct be upheld, the full cost of the  
36 extended coverage shall be reimbursed by the employee. If the  
37 employee is again employed or recalled to active employment  
38 within twelve months of his or her prior termination, he or she  
39 shall not be considered a new enrollee and may not be required  
40 to again contribute his or her share of the premium cost, if he or  
41 she had already fully contributed such share during the prior  
42 period of employment.

43       (d) *Conversion of accrued annual and sick leave for*  
44 *extended insurance coverage upon retirement for employees*  
45 *who elected to participate in the plan before July, one thousand*  
46 *nine hundred eighty-eight.* — Except as otherwise provided in  
47 subsection (g) of this section, when an employee participating  
48 in the plan, who elected to participate in the plan before the first  
49 day of July, one thousand nine hundred eighty-eight, is com-  
50 pelled or required by law to retire before reaching the age of  
51 sixty-five, or when a participating employee voluntarily retires  
52 as provided by law, that employee's accrued annual leave and  
53 sick leave, if any, shall be credited toward an extension of the  
54 insurance coverage provided by this article, according to the  
55 following formulae: The insurance coverage for a retired  
56 employee shall continue one additional month for every two  
57 days of annual leave or sick leave, or both, which the employee  
58 had accrued as of the effective date of his or her retirement. For  
59 a retired employee, his or her spouse and dependents, the  
60 insurance coverage shall continue one additional month for

61 every three days of annual leave or sick leave, or both, which  
62 the employee had accrued as of the effective date of his or her  
63 retirement.

64 (e) *Conversion of accrued annual and sick leave for*  
65 *extended insurance coverage upon retirement for employees*  
66 *who elected to participate in the plan after June, one thousand*  
67 *nine hundred eighty-eight.* — Notwithstanding subsection (d) of  
68 this section, and except as otherwise provided in subsections (g)  
69 and (l) of this section when an employee participating in the  
70 plan who elected to participate in the plan on and after the first  
71 day of July, one thousand nine hundred eighty-eight, is com-  
72 pelled or required by law to retire before reaching the age of  
73 sixty-five, or when the participating employee voluntarily  
74 retires as provided by law, that employee's annual leave or sick  
75 leave, if any, shall be credited toward one half of the premium  
76 cost of the insurance provided by this article, for periods and  
77 scope of coverage determined according to the following  
78 formulae: (1) One additional month of single retiree coverage  
79 for every two days of annual leave or sick leave, or both, which  
80 the employee had accrued as of the effective date of his or her  
81 retirement; or (2) one additional month of coverage for a  
82 retiree, his or her spouse and dependents for every three days of  
83 annual leave or sick leave, or both, which the employee had  
84 accrued as of the effective date of his or her retirement. The  
85 remaining premium cost shall be borne by the retired employee  
86 if he or she elects the coverage. For purposes of this subsection,  
87 an employee who has been a participant under spouse or  
88 dependent coverage and who reenters the plan within twelve  
89 months after termination of his or her prior coverage shall be  
90 considered to have elected to participate in the plan as of the  
91 date of commencement of the prior coverage. For purposes of  
92 this subsection, an employee shall not be considered a new  
93 employee after returning from extended authorized leave on or  
94 after the first day of July, one thousand nine hundred  
95 eighty-eight.

96       (f) *Increased retirement benefits for retired employees with*  
97 *accrued annual and sick leave.* — In the alternative to the  
98 extension of insurance coverage through premium payment  
99 provided in subsections (d) and (e) of this section, the accrued  
100 annual leave and sick leave of an employee participating in the  
101 plan may be applied, on the basis of two days retirement service  
102 credit for each one day of accrued annual and sick leave, toward  
103 an increase in the employee's retirement benefits with those  
104 days constituting additional credited service in computation of  
105 the benefits under any state retirement system. However, the  
106 additional credited service shall not be used in meeting initial  
107 eligibility for retirement criteria, but only as additional service  
108 credited in excess thereof.

109       (g) *Conversion of accrued annual and sick leave for*  
110 *extended insurance coverage upon retirement for certain higher*  
111 *education employees.* — Except as otherwise provided in  
112 subsection (l) of this section, when an employee, who is a  
113 higher education full-time faculty member employed on an  
114 annual contract basis other than for twelve months, is com-  
115 pelled or required by law to retire before reaching the age of  
116 sixty-five, or when such a participating employee voluntarily  
117 retires as provided by law, that employee's insurance coverage,  
118 as provided by this article, shall be extended according to the  
119 following formulae: The insurance coverage for a retired higher  
120 education full-time faculty member, formerly employed on an  
121 annual contract basis other than for twelve months, shall  
122 continue beyond the effective date of his or her retirement one  
123 additional year for each three and one-third years of teaching  
124 service, as determined by uniform guidelines established by the  
125 university of West Virginia board of trustees and the board of  
126 directors of the state college system, for individual coverage, or  
127 one additional year for each five years of teaching service for  
128 "family" coverage.

129       (h) Any employee who retired prior to the twenty-first day  
130 of April, one thousand nine hundred seventy-two, and who also

131 otherwise meets the conditions of the “retired employee”  
132 definition in section two of this article, shall be eligible for  
133 insurance coverage under the same terms and provisions of this  
134 article. The retired employee’s premium contribution for any  
135 such coverage shall be established by the finance board.

136 (i) *Retiree participation.* — All retirees under the provi-  
137 sions of this article, including those defined in section two of  
138 this article; those retiring prior to the twenty-first day of April,  
139 one thousand nine hundred seventy-two; and those hereafter  
140 retiring are eligible to obtain health insurance coverage. The  
141 retired employee’s premium contribution for the coverage shall  
142 be established by the finance board.

143 (j) *Surviving spouse and dependent participation.* — A  
144 surviving spouse and dependents of a deceased employee, who  
145 was either an active or retired employee participating in the  
146 plan just prior to his or her death, are entitled to be included in  
147 any group insurance coverage provided under this article to  
148 which the deceased employee was entitled, and the spouse and  
149 dependents shall bear the premium cost of the insurance  
150 coverage. The finance board shall establish the premium cost of  
151 the coverage.

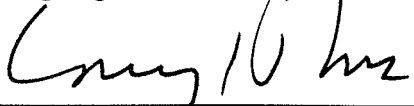
152 (k) *Elected officials.* — In construing the provisions of this  
153 section or any other provisions of this code, the Legislature  
154 declares that it is not now nor has it ever been the Legislature’s  
155 intent that elected public officials be provided any sick leave,  
156 annual leave or personal leave, and the enactment of this  
157 section is based upon the fact and assumption that no statutory  
158 or inherent authority exists extending sick leave, annual leave  
159 or personal leave to elected public officials and the very nature  
160 of those positions preclude the arising or accumulation of any  
161 leave, so as to be thereafter usable as premium paying credits  
162 for which the officials may claim extended insurance benefits.

163       (l) *Participation of certain former employees.* — An  
164 employee, eligible for coverage under the provisions of this  
165 article who has twenty years of service with any agency or  
166 entity participating in the public employees insurance program  
167 or who has been covered by the public employees insurance  
168 program for twenty years may, upon leaving employment with  
169 a participating agency or entity, continue to be covered by the  
170 program if the employee pays one hundred and five percent of  
171 the cost of retiree coverage: *Provided*, That the employee shall  
172 elect to continue coverage under this subsection within two  
173 years of the date the employment with a participating agency or  
174 entity is terminated.

175       (m) *Prohibition on conversion of accrued annual and sick*  
176 *leave for extended coverage upon retirement for new employees*  
177 *who elect to participate in the plan after June, two thousand*  
178 *one.* — Any employee hired on or after the first day of July, two  
179 thousand one who elects to participate in the plan may not  
180 apply accrued annual or sick leave toward the cost of premiums  
181 for extended insurance coverage upon his or her retirement.  
182 This prohibition does not apply to the conversion of accrued  
183 annual or sick leave for increased retirement benefits, as  
184 authorized by this section: *Provided*, That any person who has  
185 participated in the plan prior to the first day of July, two  
186 thousand one, is not a new employee for purposes of this  
187 subsection if he or she becomes re-employed with an employer  
188 participating in the plan within two years following his or her  
189 separation from employment and he or she elects to participate  
190 in the plan upon his or her re-employment.



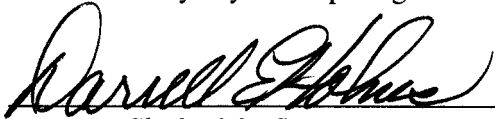
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

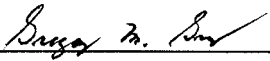
  
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Chairman Senate Committee

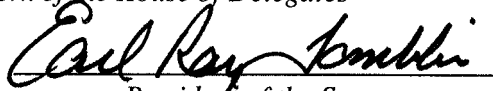
  
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Chairman House Committee


Originating in the House.

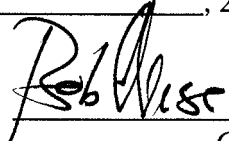
In effect ninety days from passage.

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 29<sup>th</sup>  
day of April, 2001.  
  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/23/01

Time 3:10 pm