

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2628

FISCAL  
NOTE

BY DELEGATE RODIGHIERO

[Introduced January 24, 2019; Referred  
to the Committee on Political Subdivisions 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:*

**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; any separate  
 10 corporation or instrumentality established by one or more counties, cities or towns, as permitted  
 11 by law; any corporation or instrumentality supported in most part by counties, cities or towns; any  
 12 public corporation charged by law with the performance of a governmental function and whose  
 13 jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive  
 14 community mental health center or comprehensive mental retardation facility established,  
 15 operated or licensed by the Secretary of Health and Human Resources pursuant to section one,  
 16 article two-a, chapter twenty-seven of this code and which is supported in part by state, county or  
 17 municipal funds; any person who works regularly full time in the service of the Higher Education  
 18 Policy Commission, the West Virginia Council for Community and Technical College Education  
 19 or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full

20 time in the service of a combined city-county health department created pursuant to §16-2-1 *et*  
21 *seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-  
22 11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of  
23 this code in the service of a county board of education: *Provided*, That a long-term substitute who  
24 is continuously employed for at least 133 instructional days during an instructional term, and until  
25 the end of that instructional term, is eligible for the benefits provided in this article until September  
26 1, following that instructional term: *Provided, however*, That a long-term substitute employed  
27 fewer than 133 instructional days during an instructional term is eligible for the benefits provided  
28 in this article only during such time as he or she is actually employed as a long-term substitute.  
29 On and after January 1, 1994, and upon election by a county board of education to allow elected  
30 board members to participate in the Public Employees Insurance Program pursuant to this article,  
31 any person elected to a county board of education shall be considered to be an “employee” during  
32 the term of office of the elected member. Upon election by the State Board of Education to allow  
33 appointed board members to participate in the Public Employees Insurance Program pursuant to  
34 this article, any person appointed to the State Board of Education is considered an “employee”  
35 during the term of office of the appointed member: *Provided further*, That the elected member of  
36 a county board of education and the appointed member of the State Board of Education shall pay  
37 the entire cost of the premium if he or she elects to be covered under this article. Any matters of  
38 doubt as to who is an employee within the meaning of this article shall be decided by the director.

39 (A) On or after July 1, 1997, a person shall be considered an “employee” if that person  
40 meets the following criteria:

- 41 (i) Participates in a job-sharing arrangement as defined in §18A-1-1 *et seq.* of this code;  
42 (ii) Has been designated, in writing, by all other participants in that job-sharing  
43 arrangement as the “employee” for purposes of this section; and  
44 (iii) Works at least one third of the time required for a full-time employee.

45 (B) On or after July 1, 2019, a person working as a volunteer firefighter under §8-15-1 *et*  
46 *seq.* of this code, is considered an “employee” under this section.

47 (4) "Employer" means the State of West Virginia, its boards, agencies, commissions,  
48 departments, institutions or spending units; a county board of education; a county, city or town in  
49 the state; any separate corporation or instrumentality established by one or more counties, cities  
50 or towns, as permitted by law; any corporation or instrumentality supported in most part by  
51 counties, cities or towns; any public corporation charged by law with the performance of a  
52 governmental function and whose jurisdiction is coextensive with one or more counties, cities or  
53 towns; any comprehensive community mental health center or comprehensive mental retardation  
54 facility established, operated or licensed by the Secretary of Health and Human Resources  
55 pursuant to §27-2A-1 of this code and which is supported in part by state, county or municipal  
56 funds; a combined city-county health department created pursuant to §16-2-1 *et seq.*; and a  
57 corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st  
58 Century Learner Fellow pursuant to §18-3-11 of this code but the corporation is not considered  
59 an employer with respect to any employee other than a 21st Century Learner Fellow. For  
60 purposes of this article, the county commission in which a volunteer fire department is located is  
61 considered the "employer" of volunteer firefighters for the purposes of the Public Employees  
62 Insurance Act. Any matters of doubt as to who is an "employer" within the meaning of this article  
63 shall be decided by the director. The term "employer" does not include within its meaning the  
64 National Guard.

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

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

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

73 (8) "Retired employee" means an employee of the state who retired after April 29, 1971,

74 and an employee of the Higher Education Policy Commission, the Council for Community and  
75 Technical College Education, a state institution of higher education or a county board of education  
76 who retires on or after April 21, 1972, and all additional eligible employees who retire on or after  
77 the effective date of this article, meet the minimum eligibility requirements for their respective  
78 state retirement system and whose last employer immediately prior to retirement under the state  
79 retirement system is a participating employer in the state retirement system and in the Public  
80 Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who  
81 are not covered by a state retirement system, but who are covered by a state-approved or state-  
82 contracted retirement program or a system approved by the director, shall, in the case of  
83 education employees, meet the minimum eligibility requirements of the state Teachers Retirement  
84 System and in all other cases, meet the minimum eligibility requirements of the Public Employees  
85 Retirement System and may participate in the Public Employees Insurance Agency as retired  
86 employees upon terms as the director sets by rule as authorized in this article. Employers with  
87 employees who are, or who are eligible to become, retired employees under this article shall be  
88 mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 et  
89 seq. of this code. Nonstate employers may opt out of the West Virginia other post-employment  
90 benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the  
91 Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only  
92 upon the written certification, under oath, of an authorized officer of the employer that the  
93 employer has no employees who are, or who are eligible to become, retired employees and that  
94 the employer will defend and hold harmless the Public Employees Insurance Agency from any  
95 claim by one of the employer's past, present or future employees for eligibility to participate in the  
96 Public Employees Insurance Agency as a retired employee. As a matter of law, the Public  
97 Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired  
98 employee of a nonstate employer which has opted out of the West Virginia other post-employment  
99 benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

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

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

NOTE: The purpose of this bill is to include volunteer firefighters within the Public Employees Insurance Act and require the county commissions to pay either three-fourths or the full amount of premiums.

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