

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2649

FISCAL  
NOTE

BY DELEGATE RODIGHIERO

[ Introduced January 24, 2019; 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:*

## **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 §27-2A-1 of this code and which is supported in part by state, county or  
19 municipal funds; any person who works regularly full-time in the service of the Higher Education  
20 Policy Commission, the West Virginia Council for Community and Technical College Education

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

41 On or after July 1, 1997, a person shall be considered an “employee” if that person meets  
42 the following criteria:

43 (i) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

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

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

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.* of this code;  
57 and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a  
58 21st Century Learner Fellow pursuant to §18-3-11 of this code but the corporation is not  
59 considered an employer with respect to any employee other than a 21st Century Learner Fellow.  
60 Any matters of doubt as to who is an "employer" within the meaning of this article shall be decided  
61 by the director. The term "employer" does not include within its meaning the National Guard.

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

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

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

70 (8) "Retired employee" means an employee of the state who retired after April 29, 1971,  
71 and an employee of the Higher Education Policy Commission, the Council for Community and  
72 Technical College Education, a state institution of higher education or a county board of education

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