

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 3058

FISCAL  
NOTE

BY DELEGATES HORNBUCKLE, PUSHKIN, SKAFF, HICKS,

DISERIO, CAPUTO, STAGGERS AND PYLES

[Introduced February 12, 2019; Referred

to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18A-4-10 of the Code of West Virginia, 1931, as amended, relating  
 2 to granting full time employees of county boards of education three months of paid leave  
 3 following the birth of a child, or the placement of a child in the home through adoption or  
 4 foster care; and providing that the leave is in addition to any other leave available to the  
 5 employee.

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

**ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

**§18A-4-10. Personal leave for illness, maternity, and other causes; leave banks; substitutes.**

1 (a) *Personal Leave.* --

2 (1) At the beginning of the employment term, any full-time employee of a county board is  
 3 entitled annually to at least one and one-half days personal leave for each employment month or  
 4 major fraction thereof in the employee's employment term. Unused leave shall be accumulative  
 5 without limitation and is transferable within the state. A change in job assignment during the school  
 6 year does not affect the employee's rights or benefits.

7 (2) A regular full-time employee who is absent from assigned duties due to accident,  
 8 sickness, death in the immediate family, or life threatening illness of the employee's spouse,  
 9 parents or child, or other cause authorized or approved by the board, shall be paid the full salary  
 10 from his or her regular budgeted salary appropriation during the period which the employee is  
 11 absent, but not to exceed the total amount of leave to which the employee is entitled.

12 (3) Three months of paid leave is to be given to a regular full-time employee, either male  
 13 or female, following the birth of his or her child, or the placement of a child in his or her home  
 14 through adoption or foster care, This leave is in addition to any other leave available to the  
 15 employee.

16 ~~(3)~~ (4) Each employee is permitted to use three days of leave annually without regard to  
 17 the cause for the absence. Personal leave without cause may not be used on consecutive work

18 days unless authorized or approved by the employee's principal or immediate supervisor, as  
19 appropriate. The employee shall give notice of leave without cause to the principal or immediate  
20 supervisor at least 24 hours in advance, except that in the case of sudden and unexpected  
21 circumstances, notice shall be given as soon as reasonably practicable. The principal or  
22 immediate supervisor may deny use of the day if, at the time notice is given, either 15 percent of  
23 the employees or three employees, whichever is greater, under the supervision of the principal or  
24 immediate supervisor, have previously given notice of their intention to use that day for leave.  
25 Personal leave may not be used in connection with a concerted work stoppage or strike. Where  
26 the cause for leave originated prior to the beginning of the employment term, the employee shall  
27 be paid for time lost after the start of the employment term. If an employee uses personal leave  
28 which the employee has not yet accumulated on a monthly basis and subsequently leaves the  
29 employment, the employee is required to reimburse the board for the salary or wages paid for the  
30 unaccumulated leave.

31 ~~(4)~~ (5) The state board shall maintain a rule to restrict the payment of personal leave  
32 benefits and the charging of personal leave time used to an employee receiving a workers'  
33 compensation benefit from a claim filed against and billed to the county board by which the person  
34 is employed. If an employee is awarded this benefit, the employee shall receive personal leave  
35 compensation only to the extent the compensation is required, when added to the workers'  
36 compensation benefit, to equal the amount of compensation regularly paid the employee. If  
37 personal leave compensation equal to the employee's regular pay is paid prior to the award of the  
38 workers' compensation benefit, the amount which, when added to the benefit, is in excess of the  
39 employee's regular pay shall be deducted from the employee's subsequent pay. The employee's  
40 accrued personal leave days shall be charged only for such days as equal the amount of personal  
41 leave compensation required to compensate the employee at the employee's regular rate of pay.

42 ~~(5)~~ (6) The county board may establish reasonable rules for reporting and verification of  
43 absences for cause. If any error in reporting absences occurs, the county board may make

44 necessary salary adjustments:

45 (A) In the next pay after the employee has returned to duty; or

46 (B) In the final pay if the absence occurs during the last month of the employment term.

47 (b) *Leave Banks.* --

48 (1) Each county board shall establish a personal leave bank that is available to all school  
49 personnel. The board may establish joint or separate banks for professional personnel and school  
50 service personnel. Each employee may contribute up to two days of personal leave per school  
51 year. An employee may not be coerced or compelled to contribute to a personal leave bank.

52 (2) The personal leave bank shall be established and operated pursuant to a rule adopted  
53 by the county board. The rule:

54 (A) May limit the maximum number of days used by an employee;

55 (B) Shall limit the use of leave bank days to an active employee with fewer than five days  
56 accumulated personal leave who is absent from work due to accident or illness of the employee;  
57 and

58 (C) Shall prohibit the use of days to:

59 (i) Qualify for or add to service for any retirement system administered by the state; or

60 (ii) Extend insurance coverage pursuant to §5-16-13 of this code.

61 (D) Shall require that each personal leave day contributed:

62 (i) Is deducted from the number of personal leave days to which the donor employee is  
63 entitled by this section;

64 (ii) Is not deducted from the personal leave days without cause to which a donor employee  
65 is entitled if sufficient general personal leave days are otherwise available to the donor employee;

66 (iii) Is credited to the receiving employee as one full personal leave day;

67 (iv) May not be credited for more or less than a full day by calculating the value of the  
68 leave according to the hourly wage of each employee; and

69 (v) May be used only for an absence due to the purpose for which the leave was

70 transferred. Any transferred days remaining when the catastrophic medical emergency ends  
71 revert back to the leave bank.

72 (3) The administration, subject to county board approval, may use its discretion as to the  
73 need for a substitute where limited absence may prevail, when an allowable absence does not:

74 (i) Directly affect the instruction of the students; or

75 (ii) Require a substitute employee because of the nature of the work and the duration of  
76 the cause for the absence.

77 (4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of  
78 substitutes for meeting the provisions of this section, the remainder shall be paid on or before ~~the~~  
79 ~~thirty first day of August~~ 31 from the budget of the next fiscal year.

80 (5) A county board may supplement the leave provisions in any manner it considers  
81 advisable in accordance with applicable rules of the state board and the provisions of this chapter  
82 and chapter 18 of this code.

NOTE: The purpose of this bill is to grant full-time employees of county boards of education three months of paid leave, following the birth of a child, or the placement of a child in the home through adoption or foster care. The bill provides that the leave is in addition to any other leave available to the employee.

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