

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

Senate Bill 509

BY SENATOR RUCKER

[Originating in the Committee on Education; reported
on February 9, 2022]

1 A BILL to amend and reenact §18A-4-10 of the Code of West Virginia, 1931, as amended, relating
2 to providing that county board of education employee personal leave be accrued as
3 earned throughout the employment term at the end of each pay period or on the last
4 workday for separating employees; allowing a county superintendent to advance an
5 employee a limited amount of personal leave during the employee's first year of
6 employment in certain instances; and removing unnecessary language.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

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

1 (a) *Personal Leave.* —

2 (1) ~~At the beginning of the employment term, any~~ Any full-time employee of a county board
3 ~~is entitled annually to~~ shall earn at least one and one-half days personal leave for each
4 employment month or major fraction thereof in the employee's employment term. The personal
5 leave shall be accrued as earned throughout the employment term at the end of each pay period
6 or on the last workday for separating employees. Unused leave shall be accumulative without
7 limitation and is transferable within the state. A change in job assignment during the school year
8 does not affect the employee's rights or benefits.

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

15 (A) The county superintendent may advance an employee personal leave during the
16 employee's first year of employment if the employee needs to be absent from assigned duties for

17 one or more of the aforementioned reasons set forth in this subdivision and if the employee has
18 never earned personal leave pursuant to this section in any prior employment term;

19 (B) The county superintendent may not advance any county board employee more
20 personal leave than that employee is to earn pursuant to subdivision (1) of this subsection during
21 his or her first employment term minus any personal leave that employee has already used; and

22 (C) If an employee uses personal leave which the employee has not yet accumulated on
23 a monthly basis and subsequently leaves the employment before the personal leave he or she
24 used accumulates, the employee is required to reimburse the board for the salary or wages paid
25 for the unaccumulated leave.

26 ~~(3) Each employee is permitted to use three days of leave annually without regard to the~~
27 ~~cause for the absence: *Provided*, That effective July 1, 2019, each employee is permitted to use~~
28 ~~four days of leave annually without regard to the cause for the absence. Personal leave without~~
29 ~~cause may not be used on consecutive work days unless authorized or approved by the~~
30 ~~employee's principal or immediate supervisor, as appropriate. The employee shall give notice of~~
31 ~~leave without cause to the principal or immediate supervisor at least 24 hours in advance, except~~
32 ~~that in the case of sudden and unexpected circumstances, notice shall be given as soon as~~
33 ~~reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the~~
34 ~~time notice is given, either 15 percent of the employees or three employees, whichever is greater,~~
35 ~~under the supervision of the principal or immediate supervisor, have previously given notice of~~
36 ~~their intention to use that day for leave. Personal leave may not be used in connection with a~~
37 ~~concerted work stoppage or strike. ~~Where the cause for leave originated prior to the beginning of~~~~
38 ~~the employment term, the employee shall be paid for time lost after the start of the employment~~
39 ~~term. If an employee uses personal leave which the employee has not yet accumulated on a~~
40 ~~monthly basis and subsequently leaves the employment, the employee is required to reimburse~~
41 ~~the board for the salary or wages paid for the unaccumulated leave~~

42 (4) The State Board shall maintain a rule to restrict the payment of personal leave benefits
43 and the charging of personal leave time used to an employee receiving a workers' compensation
44 benefit from a claim filed against and billed to the county board by which the person is employed.
45 If an employee is awarded this benefit, the employee shall receive personal leave compensation
46 only to the extent the compensation is required, when added to the workers' compensation
47 benefit, to equal the amount of compensation regularly paid to the employee. If personal leave
48 compensation equal to the employee's regular pay is paid prior to the award of the workers'
49 compensation benefit, the amount which, when added to the benefit, is in excess of the
50 employee's regular pay shall be deducted from the employee's subsequent pay. The employee's
51 accrued personal leave days shall be charged only for such days as equal the amount of personal
52 leave compensation required to compensate the employee at the employee's regular rate of pay.

53 (5) The county board may establish reasonable rules for reporting and verification of
54 absences for cause. If any error in reporting absences occurs, the county board may make
55 necessary salary adjustments:

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

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

58 (b) *Leave Banks.* —

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

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

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

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

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

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

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

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

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

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

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

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

80 (v) May be used only for an absence due to the purpose for which the leave was
81 transferred. Any transferred days remaining when the catastrophic medical emergency ends
82 revert back to the leave bank.

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

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

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

88 (4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of
89 substitutes for meeting the provisions of this section, the remainder shall be paid on or before the
90 August 31 from the budget of the next fiscal year.

91 (5) A county board may supplement the leave provisions in any manner it considers
92 advisable in accordance with applicable rules of the State Board and the provisions of this chapter
93 and §18-1-1 *et seq.* of this code.

94 (c) Effective July 1, 2019, a classroom teacher who has not utilized more than four days
95 of personal leave during the 200-day employment term shall receive a bonus of \$500 at the end
96 of the school year. If the appropriations to the Department of Education for this purpose are
97 insufficient to compensate all applicable classroom teachers, the Department of Education shall
98 request a supplemental appropriation in an amount sufficient to compensate all eligible classroom
99 teachers. This bonus may not be counted as part of the final average salary for the purpose of
100 calculating retirement.