

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 81**

By Senators Grady and Queen

[Introduced January 11, 2023; referred  
to the Committee on Pensions; and then to the Committee  
on Finance]

1 A BILL to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating to  
 2 allowing a person who first becomes a member of the Teachers Retirement System on or  
 3 after July 1, 2015, to apply his or her accrued annual and sick leave, on the basis of one  
 4 day's retirement service credit for each one day of accrued annual and sick leave, toward  
 5 an increase in his or her retirement benefits with those days constituting additional credited  
 6 service in computation of the benefits under the Teachers Retirement System.

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

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

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

5 (b) *Spouse and dependent coverage.* -- Each employee is entitled to have his or her  
 6 spouse and dependents included in any group hospital and surgical insurance, group major  
 7 medical insurance or group prescription drug insurance coverage to which the employee is  
 8 entitled to participate: *Provided,* That the spouse and dependent coverage is limited to excess or  
 9 secondary coverage for each spouse and dependent who has primary coverage from any other  
 10 source. For purposes of this section, the term "primary coverage" means individual or group  
 11 hospital and surgical insurance coverage or individual or group major medical insurance coverage  
 12 or group prescription drug coverage in which the spouse or dependent is the named insured or

13 certificate holder. For the purposes of this section, “dependent” includes an eligible employee’s  
14 unmarried child or stepchild under the age of twenty-five if that child or stepchild meets the  
15 definition of a “qualifying child” or a “qualifying relative” in Section 152 of the Internal Revenue  
16 Code. The director may require proof regarding spouse and dependent primary coverage and  
17 shall adopt rules governing the nature, discontinuance and resumption of any employee’s  
18 coverage for his or her spouse and dependents.

19       (c) *Continuation after termination.* -- If an employee participating in the plan is terminated  
20 from employment involuntarily or in reduction of work force, the employee’s insurance coverage  
21 provided under this article shall continue for a period of three months at no additional cost to the  
22 employee and the employer shall continue to contribute the employer’s share of plan premiums for  
23 the coverage. An employee discharged for misconduct shall not be eligible for extended benefits  
24 under this section. Coverage may be extended up to the maximum period of three months, while  
25 administrative remedies contesting the charge of misconduct are pursued. If the discharge for  
26 misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the  
27 employee. If the employee is again employed or recalled to active employment within twelve  
28 months of his or her prior termination, he or she shall not be considered a new enrollee and may  
29 not be required to again contribute his or her share of the premium cost, if he or she had already  
30 fully contributed such share during the prior period of employment.

31       (d) *Conversion of accrued annual and sick leave for extended insurance coverage upon*  
32 *retirement for employees who elected to participate in the plan before July, 1988.* -- Except as  
33 otherwise provided in subsection (g) of this section, when an employee participating in the plan,  
34 who elected to participate in the plan before July 1, 1988, is compelled or required by law to retire  
35 before reaching the age of sixty-five, or when a participating employee voluntarily retires as  
36 provided by law, that employee’s accrued annual leave and sick leave, if any, shall be credited  
37 toward an extension of the insurance coverage provided by this article, according to the following  
38 formulae: The insurance coverage for a retired employee shall continue one additional month for

39 every two days of annual leave or sick leave, or both, which the employee had accrued as of the  
40 effective date of his or her retirement. For a retired employee, his or her spouse and dependents,  
41 the insurance coverage shall continue one additional month for every three days of annual leave  
42 or sick leave, or both, which the employee had accrued as of the effective date of his or her  
43 retirement.

44 *(e) Conversion of accrued annual and sick leave for extended insurance coverage upon*  
45 *retirement for employees who elected to participate in the plan after June, 1988. --*  
46 Notwithstanding subsection (d) of this section, and except as otherwise provided in subsections  
47 (g) and (l) of this section, when an employee participating in the plan who elected to participate in  
48 the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age  
49 of sixty-five, or when the participating employee voluntarily retires as provided by law, that  
50 employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost  
51 of the insurance provided by this article, for periods and scope of coverage determined according  
52 to the following formulae: (1) One additional month of single retiree coverage for every two days of  
53 annual leave or sick leave, or both, which the employee had accrued as of the effective date of his  
54 or her retirement; or (2) one additional month of coverage for a retiree, his or her spouse and  
55 dependents for every three days of annual leave or sick leave, or both, which the employee had  
56 accrued as of the effective date of his or her retirement. The remaining premium cost shall be  
57 borne by the retired employee if he or she elects the coverage. For purposes of this subsection, an  
58 employee who has been a participant under spouse or dependent coverage and who reenters the  
59 plan within twelve months after termination of his or her prior coverage shall be considered to have  
60 elected to participate in the plan as of the date of commencement of the prior coverage. For  
61 purposes of this subsection, an employee shall not be considered a new employee after returning  
62 from extended authorized leave on or after July 1, 1988.

63 *(f) Increased retirement benefits for retired employees with accrued annual and sick leave.*

64 -- In the alternative to the extension of insurance coverage through premium payment provided in

65 subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee  
66 participating in the plan may be applied, on the basis of two days' retirement service credit for each  
67 one day of accrued annual and sick leave, toward an increase in the employee's retirement  
68 benefits with those days constituting additional credited service in computation of the benefits  
69 under any state retirement system: *Provided*, That notwithstanding the provisions of §18-7A-28e  
70 of this code, for a person who first becomes a member of the Teachers Retirement System as  
71 provided in §18-7A-1 *et seq.* of this code on or after July 1, 2015, accrued annual and sick leave of  
72 an employee participating in the plan may ~~not be applied for retirement service credit~~ be applied,  
73 on the basis of one day's retirement service credit for each one day of accrued annual and sick  
74 leave, toward an increase in the employee's retirement benefits with those days constituting  
75 additional credited service in computation of the benefits under the Teachers Retirement System.  
76 Computation of service credit pursuant to this subsection for persons who first become a member  
77 of the Teachers Retirement System on or after July 1, 2015, shall be made as set forth in West  
78 Virginia Code of State Rules §162-4-4.12 except that the computation in West Virginia Code of  
79 State Rules §162-4-4.12.2.a is the number of days of actual accrued unused sick and annual  
80 leave multiplied by one. However, the additional credited service shall not be used in meeting  
81 initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

82 (g) *Conversion of accrued annual and sick leave for extended insurance coverage upon*  
83 *retirement for certain higher education employees.* – Except as otherwise provided in subsection  
84 (l) of this section, when an employee, who is a higher education full-time faculty member employed  
85 on an annual contract basis other than for twelve months, is compelled or required by law to retire  
86 before reaching the age of sixty-five, or when such a participating employee voluntarily retires as  
87 provided by law, that employee's insurance coverage, as provided by this article, shall be  
88 extended according to the following formulae: The insurance coverage for a retired higher  
89 education full-time faculty member, formerly employed on an annual contract basis other than for  
90 twelve months, shall continue beyond the effective date of his or her retirement one additional year

91 for each three and one-third years of teaching service, as determined by uniform guidelines  
92 established by the University of West Virginia Board of Trustees and the board of directors of the  
93 state college system, for individual coverage, or one additional year for each five years of teaching  
94 service for family coverage.

95 (h) Any employee who retired prior to April 21, 1972, and who also otherwise meets the  
96 conditions of the "retired employee" definition in section two of this article, shall be eligible for  
97 insurance coverage under the same terms and provisions of this article. The retired employee's  
98 premium contribution for any such coverage shall be established by the finance board.

99 (i) *Retiree participation.* -- All retirees under the provisions of this article, including those  
100 defined in section two of this article; those retiring prior to April 21, 1972; and those hereafter  
101 retiring are eligible to obtain health insurance coverage. The retired employee's premium  
102 contribution for the coverage shall be established by the finance board.

103 (j) *Surviving spouse and dependent participation.* -- A surviving spouse and dependents of  
104 a deceased employee, who was either an active or retired employee participating in the plan just  
105 prior to his or her death, are entitled to be included in any comprehensive group health insurance  
106 coverage provided under this article to which the deceased employee was entitled, and the  
107 spouse and dependents shall bear the premium cost of the insurance coverage. The finance  
108 board shall establish the premium cost of the coverage.

109 (k) *Elected officials.* -- In construing the provisions of this section or any other provisions of  
110 this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent  
111 that elected public officials be provided any sick leave, annual leave or personal leave, and the  
112 enactment of this section is based upon the fact and assumption that no statutory or inherent  
113 authority exists extending sick leave, annual leave or personal leave to elected public officials and  
114 the very nature of those positions preclude the arising or accumulation of any leave, so as to be  
115 thereafter usable as premium paying credits for which the officials may claim extended insurance  
116 benefits.

117           *(l) Participation of certain former employees.* -- An employee, eligible for coverage under  
118 the provisions of this article who has twenty years of service with any agency or entity participating  
119 in the public employees insurance program or who has been covered by the public employees  
120 insurance program for twenty years may, upon leaving employment with a participating agency or  
121 entity, continue to be covered by the program if the employee pays one hundred five percent of the  
122 cost of retiree coverage: *Provided*, That the employee shall elect to continue coverage under this  
123 subsection within two years of the date the employment with a participating agency or entity is  
124 terminated.

125           *(m) Prohibition on conversion of accrued annual and sick leave for extended coverage*  
126 *upon retirement for new employees who elect to participate in the plan after June, 2001.* -- Any  
127 employee hired on or after July 1, 2001, who elects to participate in the plan may not apply accrued  
128 annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her  
129 retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for  
130 increased retirement benefits, as authorized by this section: *Provided*, That any person who has  
131 participated in the plan prior to July 1, 2001, is not a new employee for purposes of this subsection  
132 if he or she becomes reemployed with an employer participating in the plan within two years  
133 following his or her separation from employment and he or she elects to participate in the plan  
134 upon his or her reemployment.

135           *(n) Prohibition on conversion of accrued years of teaching service for extended coverage*  
136 *upon retirement for new employees who elect to participate in the plan July, 2009.* -- Any employee  
137 hired on or after July 1, 2009, who elects to participate in the plan may not apply accrued years of  
138 teaching service toward the cost of premiums for extended insurance coverage upon his or her  
139 retirement.

NOTE: The purpose of this bill is to allow Tier II members of the Teachers Retirement System to apply accrued annual and sick leave, on the basis of one day's retirement service credit for each one day of accrued annual and sick leave, toward an increase in his

or her retirement benefits with those days constituting additional credited service in computation of the benefits under the Teachers Retirement System.

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