WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2001

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2209

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

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Passed April 14, 2001

In Effect Ninety Days from Passage
AN ACT to amend and reenact section thirteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the public employees insurance agency; prohibiting the conversion of accrued annual and sick leave for extended insurance coverage upon retirement for covered employees hired after a certain date; and exempting certain employees who are rehired from the prohibition.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.
85-16-13. 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.

(a) **Cost-sharing.** — The director shall provide under any contract or contracts entered into under the provisions of this article that the costs of any group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance benefit plan or plans shall be paid by the employer and employee.

(b) **Spouse and dependent coverage.** — Each employee is entitled to have his or her spouse and dependents, as defined by the rules of the public employees insurance agency, included in any group hospital and surgical insurance, group major medical insurance or group prescription drug insurance coverage to which the employee is entitled to participate: Provided, That the spouse and dependent coverage is limited to excess or secondary coverage for each spouse and dependent who has primary coverage from any other source. For purposes of this section, the term “primary coverage” means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. The director may require proof regarding spouse and dependent primary coverage and shall adopt rules governing the nature, discontinuance and resumption of any employee’s coverage for his or her spouse and dependents.

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

(d) Conversion of accrued annual and sick leave for
extended insurance coverage upon retirement for employees
who elected to participate in the plan before July, one thousand
nine hundred eighty-eight. — Except as otherwise provided in
subsection (g) of this section, when an employee participating
in the plan, who elected to participate in the plan before the first
day of July, one thousand nine hundred eighty-eight, is com-
pelled or required by law to retire before reaching the age of
sixty-five, or when a participating employee voluntarily retires
as provided by law, that employee's accrued annual leave and
sick leave, if any, shall be credited toward an extension of the
insurance coverage provided by this article, according to the
following formulae: The insurance coverage for a retired
employee shall continue one additional month for every two
days of annual leave or sick leave, or both, which the employee
had accrued as of the effective date of his or her retirement. For
a retired employee, his or her spouse and dependents, the
insurance coverage shall continue one additional month for
every three days of annual leave or sick leave, or both, which
the employee had accrued as of the effective date of his or her
retirement.

(e) Conversion of accrued annual and sick leave for
extended insurance coverage upon retirement for employees
who elected to participate in the plan after June, one thousand
nine hundred eighty-eight. — Notwithstanding subsection (d) of
this section, and except as otherwise provided in subsections (g)
and (l) of this section when an employee participating in the
plan who elected to participate in the plan on and after the first
day of July, one thousand nine hundred eighty-eight, is com-
pelled or required by law to retire before reaching the age of
sixty-five, or when the participating employee voluntarily
retires as provided by law, that employee’s annual leave or sick
leave, if any, shall be credited toward one half of the premium
cost of the insurance provided by this article, for periods and
scope of coverage determined according to the following
formulae: (1) One additional month of single retiree coverage
for every two days of annual leave or sick leave, or both, which
the employee had accrued as of the effective date of his or her
retirement; or (2) one additional month of coverage for a
retiree, his or her spouse and dependents for every three days of
annual leave or sick leave, or both, which the employee had
accrued as of the effective date of his or her retirement. The
remaining premium cost shall be borne by the retired employee
if he or she elects the coverage. For purposes of this subsection,
an employee who has been a participant under spouse or
dependent coverage and who reenters the plan within twelve
months after termination of his or her prior coverage shall be
considered to have elected to participate in the plan as of the
date of commencement of the prior coverage. For purposes of
this subsection, an employee shall not be considered a new
employee after returning from extended authorized leave on or
after the first day of July, one thousand nine hundred
eighty-eight.
(f) **Increased retirement benefits for retired employees with accrued annual and sick leave.** — In the alternative to the extension of insurance coverage through premium payment provided in subsections (d) and (e) of this section, the accrued annual leave and sick leave of an employee participating in the plan may be applied, on the basis of two days retirement service credit for each one day of accrued annual and sick leave, toward an increase in the employee’s retirement benefits with those days constituting additional credited service in computation of the benefits under any state retirement system. However, the additional credited service shall not be used in meeting initial eligibility for retirement criteria, but only as additional service credited in excess thereof.

(g) **Conversion of accrued annual and sick leave for extended insurance coverage upon retirement for certain higher education employees.** — Except as otherwise provided in subsection (l) of this section, when an employee, who is a higher education full-time faculty member employed on an annual contract basis other than for twelve months, is compelled or required by law to retire before reaching the age of sixty-five, or when such a participating employee voluntarily retires as provided by law, that employee’s insurance coverage, as provided by this article, shall be extended according to the following formulae: The insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for twelve months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the university of West Virginia board of trustees and the board of directors of the state college system, for individual coverage, or one additional year for each five years of teaching service for “family” coverage.

(h) Any employee who retired prior to the twenty-first day of April, one thousand nine hundred seventy-two, and who also
otherwise meets the conditions of the "retired employee" definition in section two of this article, shall be eligible for insurance coverage under the same terms and provisions of this article. The retired employee's premium contribution for any such coverage shall be established by the finance board.

(i) Retiree participation. — All retirees under the provisions of this article, including those defined in section two of this article; those retiring prior to the twenty-first day of April, one thousand nine hundred seventy-two; and those hereafter retiring are eligible to obtain health insurance coverage. The retired employee's premium contribution for the coverage shall be established by the finance board.

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

(k) Elected officials. — In construing the provisions of this section or any other provisions of this code, the Legislature declares that it is not now nor has it ever been the Legislature's intent that elected public officials be provided any sick leave, annual leave or personal leave, and the enactment of this section is based upon the fact and assumption that no statutory or inherent authority exists extending sick leave, annual leave or personal leave to elected public officials and the very nature of those positions preclude the arising or accumulation of any leave, so as to be thereafter usable as premium paying credits for which the officials may claim extended insurance benefits.
(l) Participation of certain former employees. — An employee, eligible for coverage under the provisions of this article who has twenty years of service with any agency or entity participating in the public employees insurance program or who has been covered by the public employees insurance program for twenty years may, upon leaving employment with a participating agency or entity, continue to be covered by the program if the employee pays one hundred and five percent of the cost of retiree coverage: Provided, That the employee shall elect to continue coverage under this subsection within two years of the date the employment with a participating agency or entity is terminated.

(m) Prohibition on conversion of accrued annual and sick leave for extended coverage upon retirement for new employees who elect to participate in the plan after June, two thousand one. — Any employee hired on or after the first day of July, two thousand one who elects to participate in the plan may not apply accrued annual or sick leave toward the cost of premiums for extended insurance coverage upon his or her retirement. This prohibition does not apply to the conversion of accrued annual or sick leave for increased retirement benefits, as authorized by this section: Provided, That any person who has participated in the plan prior to the first day of July, two thousand one, is not a new employee for purposes of this subsection if he or she becomes re-employed with an employer participating in the plan within two years following his or her separation from employment and he or she elects to participate in the plan upon his or her re-employment.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 27th day of April, 2001.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/23/01
Time 3:10 p.m.