WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 2008

ENROLLED

House Bill No. 216

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]

Passed June 25, 2008

In Effect from Passage
AN ACT to amend and reenact §5-5-6 of the Code of West Virginia, 1931, as amended, relating to payments to certain state employees for unused sick days; clarifying the formula for "daily rate of pay"; creating the State Employee Sick Leave Fund; and requiring the Secretary of the Department of Administration to promulgate rules related to reimbursement for payments made to employees whose salaries are funded in whole or in part by a source other than the General Revenue Fund.

Be it enacted by the Legislature of West Virginia:

That §5-5-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. SALARY INCREASE FOR STATE EMPLOYEES.

§5-5-6. Payment for unused sick leave.

1 (a) Every eligible employee, as defined in section one of this article, who is entitled upon retirement to credit his or her
accrued annual and sick leave for extended insurance
coverage as provided in section thirteen, article sixteen of this
chapter, and who has accumulated at least sixty-five days of
unused sick leave may be paid, at his or her option, for
unused sick leave in an amount of days as designated by the
employee not to exceed the number of sick leave days that
would reduce an employee’s sick leave balance to less than
fifty days. The employee shall be paid at a rate equal to one
quarter of their usual rate of daily pay during that calendar
year. The “daily rate of pay” of an employee paid a monthly
salary is calculated by multiplying the monthly salary by
twelve and dividing that number by the number of workdays
for that calendar year. As used in this section, “workday”
does not include weekends. Any payment for unused sick
leave may not be a part of final average salary computation.

(b) Payment for unused sick leave may be made only
once per fiscal year on either the pay day immediately
following the first full pay period in July or the first full pay
period in December. Payments shall be made out of the fund
established in subsection (e) of this section.

(c) Any eligible employee opting to receive payment in
exchange for unused sick leave must contract, in a form to be
prescribed by the Department of Administration, agreeing to
reimburse the fund for the amount exchanged plus twelve
percent per annum if the employee elects to separate from
employment within sixty months of the date of the exchange
pursuant to subsection (a) of this section. The Department of
Administration shall pursue collection of the obligation,
either by itself, or by contracting with a collection agency.
For purposes of this section, “separation” does not include
separation from employment by death or retirement, but does
refer to any other manner in which employment may be
terminated.
(d) Payments shall be made in the order that eligible employees apply for the payments so long as funds are available. In the event the fund is insufficient to pay all employees who have applied for payment in a fiscal year, employees who do not receive payment are eligible for payment in the next fiscal year, are not required to reapply and shall receive payment in the order in which they first applied, unless the employee chooses to withdraw the application prior to the next fiscal year.

(e) Effective the first day of July, two thousand eight, there is created a special revenue account within the State Treasury to be known as the State Employee Sick Leave Fund. The fund shall consist of moneys appropriated by the Legislature, moneys deposited into the fund in accordance with administrative rules of the Department of Administration, and any interest or other return to moneys in the fund. The fund shall be administered by the Secretary of the Department of Administration.

(f) The secretary shall promulgate rules pursuant to article three, chapter twenty-nine-a of this code to implement the provisions of this section. The rules shall include, but not be limited to, provisions for the application process and a rule authorizing the secretary to obtain reimbursement, where available and appropriate, to the State Employee Sick Leave Fund from any spending unit for a pro rata share of payments made under the provisions of this section to any employee whose salary is paid, in whole or in part, from a funding source other than the General Revenue Fund.

(g) Each spending unit, as defined in section one of this article, shall verify to the secretary whether an employee is eligible for payment under this section, shall verify the funding source or sources of the employee’s salary, and shall verify the total number of unused sick leave days for all
employees at least once per year. The secretary shall maintain sick leave records for all spending units. All sick leave days for which an employee is paid as provided in this section shall be deducted from the employee’s sick leave balance by the secretary and the secretary shall verify to each spending unit the amount of days that have been deducted from an employee’s sick leave balance. An employee shall not be permitted to reacquire any sick leave days for which he or she received payment under the provisions of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]

Chairman Senate Committee

[Signature]

Chairman House Committee

Originating in the House.

In effect from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker of the House of Delegates

The within was approved this the 9th day of July, 2008.

[Signature]

Governor