

HB 216

FILED

2008 JUL -9 PM 4: 16

OFFICE OF THE  
SECRETARY OF STATE

**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

**ENROLLED**

FILED

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**H. B. 216**

(S) [Signature]  
SECRETARY OF STATE

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(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)  
[BY REQUEST OF THE EXECUTIVE]

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[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  
2 this article, who is entitled upon retirement to credit his or her

3 accrued annual and sick leave for extended insurance  
4 coverage as provided in section thirteen, article sixteen of this  
5 chapter, and who has accumulated at least sixty-five days of  
6 unused sick leave may be paid, at his or her option, for  
7 unused sick leave in an amount of days as designated by the  
8 employee not to exceed the number of sick leave days that  
9 would reduce an employee's sick leave balance to less than  
10 fifty days. The employee shall be paid at a rate equal to one  
11 quarter of their usual rate of daily pay during that calendar  
12 year. The "daily rate of pay" of an employee paid a monthly  
13 salary is calculated by multiplying the monthly salary by  
14 twelve and dividing that number by the number of workdays  
15 for that calendar year. As used in this section, "workday"  
16 does not include weekends. Any payment for unused sick  
17 leave may not be a part of final average salary computation.

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

23 (c) Any eligible employee opting to receive payment in  
24 exchange for unused sick leave must contract, in a form to be  
25 prescribed by the Department of Administration, agreeing to  
26 reimburse the fund for the amount exchanged plus twelve  
27 percent per annum if the employee elects to separate from  
28 employment within sixty months of the date of the exchange  
29 pursuant to subsection (a) of this section. The Department of  
30 Administration shall pursue collection of the obligation,  
31 either by itself, or by contracting with a collection agency.  
32 For purposes of this section, "separation" does not include  
33 separation from employment by death or retirement, but does  
34 refer to any other manner in which employment may be  
35 terminated.

36 (d) Payments shall be made in the order that eligible  
37 employees apply for the payments so long as funds are  
38 available. In the event the fund is insufficient to pay all  
39 employees who have applied for payment in a fiscal year,  
40 employees who do not receive payment are eligible for  
41 payment in the next fiscal year, are not required to reapply  
42 and shall receive payment in the order in which they first  
43 applied, unless the employee chooses to withdraw the  
44 application prior to the next fiscal year.

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

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

64 (g) Each spending unit, as defined in section one of this  
65 article, shall verify to the secretary whether an employee is  
66 eligible for payment under this section, shall verify the  
67 funding source or sources of the employee's salary, and shall  
68 verify the total number of unused sick leave days for all

69 employees at least once per year. The secretary shall  
70 maintain sick leave records for all spending units. All sick  
71 leave days for which an employee is paid as provided in this  
72 section shall be deducted from the employee's sick leave  
73 balance by the secretary and the secretary shall verify to each  
74 spending unit the amount of days that have been deducted  
75 from an employee's sick leave balance. An employee shall  
76 not be permitted to reacquire any sick leave days for which  
77 he or she received payment under the provisions of this  
78 section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

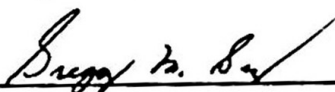
  
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 Chairman Senate Committee

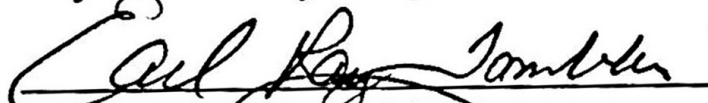
  
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 Chairman House Committee

Originating in the House.

In effect from passage.

  
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 Clerk of the Senate

  
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 Clerk of the House of Delegates

  
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 President of the Senate

  
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 Speaker of the House of Delegates

The within is approved this the 9<sup>th</sup>  
 day of July, 2008.

  
 \_\_\_\_\_  
 Governor

PRESENTED TO THE  
GOVERNOR

JUN 28 2008

Time 1:39 pm