

SB 492
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WEST VIRGINIA LEGISLATURE OFFICE OF THE CLERK OF THE WEST VIRGINIA SENATE

SEVENTY-NINTH LEGISLATURE

REGULAR SESSION, 2009

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ENROLLED

Senate Bill No. 492

(BY SENATORS MINARD, HELMICK AND McCABE)

[Passed April 11, 2009; in effect ninety days from passage.]

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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Senate Bill No. 492

(BY SENATORS MINARD, HELMICK AND MCCABE)

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AN ACT to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating to the terms of participation in the Public Employees Insurance Agency of dependent children and employees hired on or after July 1, 2009, upon retirement.

Be it enacted by the Legislature of West Virginia:

That §5-16-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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
- 2 contract or contracts entered into under the provisions of
- 3 this article that the costs of any group hospital and

4 surgical insurance, group major medical insurance, group
5 prescription drug insurance, group life and accidental
6 death insurance benefit plan or plans shall be paid by the
7 employer and employee.

8 (b) *Spouse and dependent coverage.* – Each employee
9 is entitled to have his or her spouse and dependents
10 included in any group hospital and surgical insurance,
11 group major medical insurance or group prescription drug
12 insurance coverage to which the employee is entitled to
13 participate: *Provided*, That the spouse and dependent
14 coverage is limited to excess or secondary coverage for
15 each spouse and dependent who has primary coverage
16 from any other source. For purposes of this section, the
17 term “primary coverage” means individual or group
18 hospital and surgical insurance coverage or individual or
19 group major medical insurance coverage or group pre-
20 scription drug coverage in which the spouse or dependent
21 is the named insured or certificate holder. For the pur-
22 poses of this section, “dependent” includes an eligible
23 employee’s unmarried child or stepchild under the age of
24 twenty-five if that child or stepchild meets the definition
25 of a “qualifying child” or a “qualifying relative” in
26 Section 152 of the Internal Revenue Code. The director
27 may require proof regarding spouse and dependent
28 primary coverage and shall adopt rules governing the
29 nature, discontinuance and resumption of any employee’s
30 coverage for his or her spouse and dependents.

31 (c) *Continuation after termination.* – If an employee
32 participating in the plan is terminated from employment
33 involuntarily or in reduction of work force, the employee’s
34 insurance coverage provided under this article shall
35 continue for a period of three months at no additional cost
36 to the employee and the employer shall continue to
37 contribute the employer’s share of plan premiums for the
38 coverage. An employee discharged for misconduct shall
39 not be eligible for extended benefits under this section.

40 Coverage may be extended up to the maximum period of
41 three months, while administrative remedies contesting
42 the charge of misconduct are pursued. If the discharge for
43 misconduct be upheld, the full cost of the extended
44 coverage shall be reimbursed by the employee. If the
45 employee is again employed or recalled to active employ-
46 ment within twelve months of his or her prior termination,
47 he or she shall not be considered a new enrollee and may
48 not be required to again contribute his or her share of the
49 premium cost, if he or she had already fully contributed
50 such share during the prior period of employment.

51 (d) *Conversion of accrued annual and sick leave for*
52 *extended insurance coverage upon retirement for employ-*
53 *ees who elected to participate in the plan before July, 1988.*
54 – Except as otherwise provided in subsection (g) of this
55 section, when an employee participating in the plan, who
56 elected to participate in the plan before July 1, 1988, is
57 compelled or required by law to retire before reaching the
58 age of sixty-five, or when a participating employee
59 voluntarily retires as provided by law, that employee's
60 accrued annual leave and sick leave, if any, shall be
61 credited toward an extension of the insurance coverage
62 provided by this article, according to the following
63 formulae: The insurance coverage for a retired employee
64 shall continue one additional month for every two days of
65 annual leave or sick leave, or both, which the employee
66 had accrued as of the effective date of his or her retire-
67 ment. For a retired employee, his or her spouse and
68 dependents, the insurance coverage shall continue one
69 additional month for every three days of annual leave or
70 sick leave, or both, which the employee had accrued as of
71 the effective date of his or her retirement.

72 (e) *Conversion of accrued annual and sick leave for*
73 *extended insurance coverage upon retirement for employ-*
74 *ees who elected to participate in the plan after June, 1988.*
75 – Notwithstanding subsection (d) of this section, and

76 except as otherwise provided in subsections (g) and (l) of
77 this section when an employee participating in the plan
78 who elected to participate in the plan on and after July 1,
79 1988, is compelled or required by law to retire before
80 reaching the age of sixty-five, or when the participating
81 employee voluntarily retires as provided by law, that
82 employee's annual leave or sick leave, if any, shall be
83 credited toward one half of the premium cost of the
84 insurance provided by this article, for periods and scope of
85 coverage determined according to the following formulae:
86 (1) One additional month of single retiree coverage for
87 every two days of annual leave or sick leave, or both,
88 which the employee had accrued as of the effective date of
89 his or her retirement; or (2) one additional month of
90 coverage for a retiree, his or her spouse and dependents for
91 every three days of annual leave or sick leave, or both,
92 which the employee had accrued as of the effective date of
93 his or her retirement. The remaining premium cost shall
94 be borne by the retired employee if he or she elects the
95 coverage. For purposes of this subsection, an employee
96 who has been a participant under spouse or dependent
97 coverage and who reenters the plan within twelve months
98 after termination of his or her prior coverage shall be
99 considered to have elected to participate in the plan as of
100 the date of commencement of the prior coverage. For
101 purposes of this subsection, an employee shall not be
102 considered a new employee after returning from extended
103 authorized leave on or after July 1, 1988.

104 (f) *Increased retirement benefits for retired employees*
105 *with accrued annual and sick leave.* – In the alternative to
106 the extension of insurance coverage through premium
107 payment provided in subsections (d) and (e) of this section,
108 the accrued annual leave and sick leave of an employee
109 participating in the plan may be applied, on the basis of
110 two days' retirement service credit for each one day of
111 accrued annual and sick leave, toward an increase in the
112 employee's retirement benefits with those days constitut-

113 ing additional credited service in computation of the
114 benefits under any state retirement system. However, the
115 additional credited service shall not be used in meeting
116 initial eligibility for retirement criteria, but only as
117 additional service credited in excess thereof.

118 (g) *Conversion of accrued annual and sick leave for*
119 *extended insurance coverage upon retirement for certain*
120 *higher education employees.* – Except as otherwise
121 provided in subsection (l) of this section, when an em-
122 ployee, who is a higher education full-time faculty mem-
123 ber employed on an annual contract basis other than for
124 twelve months, is compelled or required by law to retire
125 before reaching the age of sixty-five, or when such a
126 participating employee voluntarily retires as provided by
127 law, that employee's insurance coverage, as provided by
128 this article, shall be extended according to the following
129 formulae: The insurance coverage for a retired higher
130 education full-time faculty member, formerly employed on
131 an annual contract basis other than for twelve months,
132 shall continue beyond the effective date of his or her
133 retirement one additional year for each three and
134 one-third years of teaching service, as determined by
135 uniform guidelines established by the University of West
136 Virginia Board of Trustees and the board of directors of
137 the state college system, for individual coverage, or one
138 additional year for each five years of teaching service for
139 "family" coverage.

140 (h) Any employee who retired prior to April 21, 1972,
141 and who also otherwise meets the conditions of the
142 "retired employee" definition in section two of this article,
143 shall be eligible for insurance coverage under the same
144 terms and provisions of this article. The retired em-
145 ployee's premium contribution for any such coverage shall
146 be established by the finance board.

147 (i) *Retiree participation.* – All retirees under the
148 provisions of this article, including those defined in
149 section two of this article; those retiring prior to April 21,
150 1972; and those hereafter retiring are eligible to obtain
151 health insurance coverage. The retired employee's pre-
152 mium contribution for the coverage shall be established by
153 the finance board.

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

163 (k) *Elected officials.* – In construing the provisions of
164 this section or any other provisions of this code, the
165 Legislature declares that it is not now nor has it ever been
166 the Legislature's intent that elected public officials be
167 provided any sick leave, annual leave or personal leave,
168 and the enactment of this section is based upon the fact
169 and assumption that no statutory or inherent authority
170 exists extending sick leave, annual leave or personal leave
171 to elected public officials and the very nature of those
172 positions preclude the arising or accumulation of any
173 leave, so as to be thereafter usable as premium paying
174 credits for which the officials may claim extended insur-
175 ance benefits.

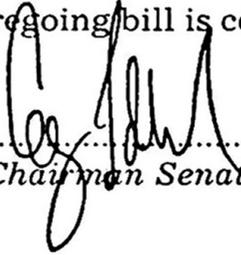
176 (l) *Participation of certain former employees.* – An
177 employee, eligible for coverage under the provisions of this
178 article who has twenty years of service with any agency or
179 entity participating in the public employees insurance
180 program or who has been covered by the public employees
181 insurance program for twenty years may, upon leaving

182 employment with a participating agency or entity, con-
183 tinue to be covered by the program if the employee pays
184 one hundred five percent of the cost of retiree coverage:
185 *Provided*, That the employee shall elect to continue
186 coverage under this subsection within two years of the
187 date the employment with a participating agency or entity
188 is terminated.

189 (m) *Prohibition on conversion of accrued annual and*
190 *sick leave for extended coverage upon retirement for new*
191 *employees who elect to participate in the plan after June,*
192 *2001.* – Any employee hired on or after July 1, 2001, who
193 elects to participate in the plan may not apply accrued
194 annual or sick leave toward the cost of premiums for
195 extended insurance coverage upon his or her retirement.
196 This prohibition does not apply to the conversion of
197 accrued annual or sick leave for increased retirement
198 benefits, as authorized by this section: *Provided*, That any
199 person who has participated in the plan prior to July 1,
200 2001, is not a new employee for purposes of this subsection
201 if he or she becomes reemployed with an employer partici-
202 pating in the plan within two years following his or her
203 separation from employment and he or she elects to
204 participate in the plan upon his or her reemployment.

205 (n) *Prohibition on conversion of accrued years of*
206 *teaching service for extended coverage upon retirement for*
207 *new employees who elect to participate in the plan July,*
208 *2009.* – Any employee hired on or after July 1, 2009, who
209 elects to participate in the plan may not apply accrued
210 years of teaching service toward the cost of premiums for
211 extended insurance coverage upon his or her retirement.

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


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Chairman Senate Committee

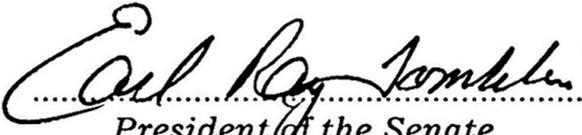

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Chairman House Committee

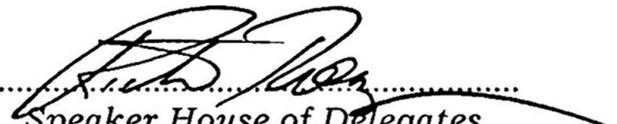
Originated in the Senate.

In effect ninety days from passage.

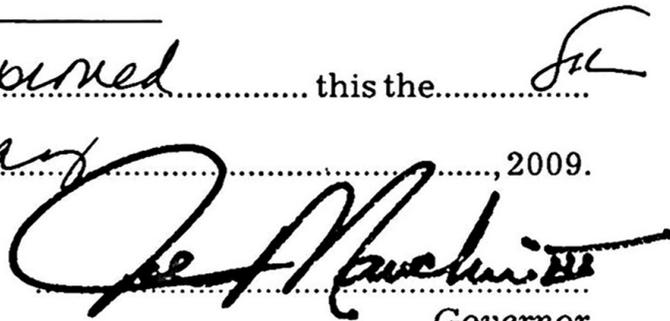

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 5th
Day of May, 2009.


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Governor

PRESENTED TO THE
GOVERNOR

MAY 7 2009

Time

11:15 AM