

SB 446

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WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 446

(SENATORS HELMICK, KESSLER,
UNGER AND PLYMALE, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

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AN ACT to amend and reenact §5-16-13 of the Code of West Virginia, 1931, as amended, relating to clarifying that the surviving spouse and dependents of a deceased public employee participating in a plan of the Public Employees Insurance Agency may only participate in comprehensive group health insurance coverage provided by the Public Employees Insurance Agency.

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 is
9 entitled to have his or her spouse and dependents included
10 in any group hospital and surgical insurance, group major
11 medical insurance or group prescription drug insurance
12 coverage to which the employee is entitled to participate:
13 *Provided,* That the spouse and dependent coverage is
14 limited to excess or secondary coverage for each spouse
15 and dependent who has primary coverage from any other
16 source. For purposes of this section, the term “primary
17 coverage” means individual or group hospital and surgical
18 insurance coverage or individual or group major medical
19 insurance coverage or group prescription drug coverage in
20 which the spouse or dependent is the named insured or
21 certificate holder. For the purposes of this section,
22 “dependent” includes an eligible employee’s unmarried
23 child or stepchild under the age of twenty-five if that child
24 or stepchild meets the definition of a “qualifying child” or
25 a “qualifying relative” in Section 152 of the Internal
26 Revenue Code. The director may require proof regarding
27 spouse and dependent primary coverage and shall adopt
28 rules governing the nature, discontinuance and resumption
29 of any employee’s coverage for his or her spouse and
30 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 one-
134 third years of teaching service, as determined by uniform
135 guidelines established by the University of West Virginia
136 Board of Trustees and the board of directors of the state
137 college system, for individual coverage, or one additional
138 year for each five years of teaching service for "family"
139 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 provi-
148 sions of this article, including those defined in section two
149 of this article; those retiring prior to April 21, 1972; and
150 those hereafter retiring are eligible to obtain health
151 insurance coverage. The retired employee's premium
152 contribution for the coverage shall be established by the
153 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 comprehensive group health insurance
159 coverage provided under this article to which the deceased
160 employee was entitled, and the spouse and dependents
161 shall bear the premium cost of the insurance coverage.
162 The finance board shall establish the premium cost of the
163 coverage.

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

175 credits for which the officials may claim extended insur-
176 ance benefits.

177 (l) *Participation of certain former employees.* – An
178 employee, eligible for coverage under the provisions of this
179 article who has twenty years of service with any agency or
180 entity participating in the public employees insurance
181 program or who has been covered by the public employees
182 insurance program for twenty years may, upon leaving
183 employment with a participating agency or entity, con-
184 tinue to be covered by the program if the employee pays
185 one hundred five percent of the cost of retiree coverage:
186 *Provided,* That the employee shall elect to continue
187 coverage under this subsection within two years of the
188 date the employment with a participating agency or entity
189 is terminated.

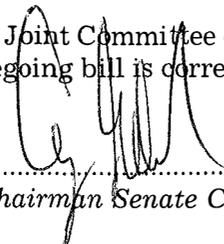
190 (m) *Prohibition on conversion of accrued annual and sick*
191 *leave for extended coverage upon retirement for new*
192 *employees who elect to participate in the plan after June,*
193 *2001.* – Any employee hired on or after July 1, 2001, who
194 elects to participate in the plan may not apply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

206 (n) *Prohibition on conversion of accrued years of teach-*
207 *ing service for extended coverage upon retirement for new*
208 *employees who elect to participate in the plan July, 2009.*
209 – Any employee hired on or after July 1, 2009, who elects

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210 to participate in the plan may not apply accrued years of
211 teaching service toward the cost of premiums for extended
212 insurance coverage upon his or her retirement.

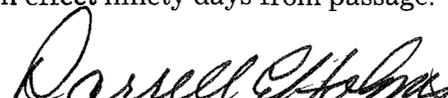
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is appended* this the *31st*
Day of *May*, 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2010

Time 3:45 pm