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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

1st Extraordinary Session, 2001

ENROLLED

SENATE BILL NO. 1003

(By Senators Plymate and Tomblin, Mr. President)

PASSED April 23, 2001

In Effect from Passage

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Senate Bill No. 1003

(BY SENATORS PLYMALE AND TOMBLIN, MR. PRESIDENT)

[Passed April 23, 2001; in effect from passage.]

AN ACT to amend and reenact section five, 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; and providing for an allocation of aggregate premium percentages between employers and employees in the financial plans of the agency.

Be it enacted by the Legislature of West Virginia:

That section five, 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.

§5-16-5. Purpose, powers and duties of the finance board; initial financial plan; financial plan for following year; and annual financial plans.

- 1 (a) The purpose of the finance board created by this
- 2 article is to bring fiscal stability to the public employees

3 insurance agency through development of annual financial
4 plans and long-range plans designed to meet the agency's
5 estimated total financial requirements, taking into account
6 all revenues projected to be made available to the agency,
7 and apportioning necessary costs equitably among partici-
8 pating employers, employees and retired employees and
9 providers of health care services.

10 (b) The finance board shall retain the services of an
11 impartial, professional actuary, with demonstrated
12 experience in analysis of large group health insurance
13 plans, to estimate the total financial requirements of the
14 public employees insurance agency for each fiscal year and
15 to review and render written professional opinions as to
16 financial plans proposed by the finance board. The
17 actuary shall also assist in the development of alternative
18 financing options and perform any other services re-
19 quested by the finance board or the director. All reason-
20 able fees and expenses for actuarial services shall be paid
21 by the public employees insurance agency. Any financial
22 plan or modifications to a financial plan approved or
23 proposed by the finance board pursuant to this section
24 shall be submitted to and reviewed by the actuary and may
25 not be finally approved and submitted to the governor and
26 to the Legislature without the actuary's written profes-
27 sional opinion that the plan may be reasonably expected
28 to generate sufficient revenues to meet all estimated
29 program and administrative costs of the agency, including
30 incurred but unreported claims, for the fiscal year for
31 which the plan is proposed. The actuary's opinion on the
32 financial plan for each fiscal year shall allow for no more
33 than thirty days of accounts payable to be carried over
34 into the next fiscal year. The actuary's opinion for any
35 fiscal year shall not include a requirement for establish-
36 ment of a reserve fund.

37 (c) All financial plans required by this section shall
38 establish:

39 (1) Maximum levels of reimbursement which the public
40 employees insurance agency makes to categories of health
41 care providers;

42 (2) Any necessary cost containment measures for
43 implementation by the director;

44 (3) The levels of premium costs to participating employ-
45 ers; and

46 (4) The types and levels of cost to participating employ-
47 ees and retired employees.

48 The financial plans may provide for different levels of
49 costs based on the insureds' ability to pay. The finance
50 board may establish different levels of costs to retired
51 employees based upon length of employment with a
52 participating employer, ability to pay or other relevant
53 factors. The financial plans may also include optional
54 alternative benefit plans with alternative types and levels
55 of cost. The finance board may develop policies which
56 encourage the use of West Virginia health care providers.

57 In addition, the finance board may allocate a portion of
58 the premium costs charged to participating employers to
59 subsidize the cost of coverage for participating retired
60 employees, on such terms as the finance board determines
61 are equitable and financially responsible.

62 (d)(1) The finance board shall prepare an annual finan-
63 cial plan for each fiscal year during which the finance
64 board remains in existence. The finance board chairman
65 shall request the actuary to estimate the total financial
66 requirements of the public employees insurance agency for
67 the fiscal year.

68 (2) The finance board shall prepare a proposed financial
69 plan designed to generate revenues sufficient to meet all
70 estimated program and administrative costs of the public
71 employees insurance agency for the fiscal year. The
72 proposed financial plan shall allow for no more than thirty

73 days of accounts payable to be carried over into the next
74 fiscal year. Before final adoption of the proposed financial
75 plan, the finance board shall request the actuary to review
76 the plan and to render a written professional opinion
77 stating whether the plan will generate sufficient revenues
78 to meet all estimated program and administrative costs of
79 the public employees insurance agency for the fiscal year.
80 The actuary's report shall explain the basis of its opinion.
81 If the actuary concludes that the proposed financial plan
82 will not generate sufficient revenues to meet all anti-
83 cipated costs, then the finance board shall make necessary
84 modifications to the proposed plan to ensure that all
85 actuarially determined financial requirements of the
86 agency will be met.

87 (3) Upon obtaining the actuary's opinion, the finance
88 board shall conduct one or more public hearings in each
89 congressional district to receive public comment on the
90 proposed financial plan, shall review such comments and
91 shall finalize and approve the financial plan.

92 (4) Any financial plan shall be designed to allow thirty
93 days or less of accounts payable to be carried over into the
94 next fiscal year. For each fiscal year, the governor shall
95 provide his or her estimate of total revenues to the finance
96 board no later than the fifteenth day of October of the
97 preceding fiscal year: *Provided*, That, for the prospective
98 financial plans required by this section, the governor shall
99 estimate the revenues available for each fiscal year of the
100 plans based on the estimated percentage of growth in
101 general fund revenues. The finance board shall submit its
102 final, approved financial plan, after obtaining the neces-
103 sary actuary's opinion and conducting one or more public
104 hearings in each congressional district, to the governor and
105 to the Legislature no later than the first day of January
106 preceding the fiscal year. The financial plan for a fiscal
107 year becomes effective and shall be implemented by the
108 director on the first day of July of the fiscal year. In
109 addition to each final, approved financial plan required

110 under this section, the finance board shall also simulta-
111 neously submit financial statements based on generally
112 accepted accounting practices (GAAP) and the final,
113 approved plan restated on an accrual basis of accounting,
114 which shall include allowances for incurred but not
115 reported claims: *Provided, however,* That the financial
116 statements and the accrual-based financial plan restate-
117 ment shall not affect the approved financial plan.

118 (e) The provisions of chapter twenty-nine-a of this code
119 shall not apply to the preparation, approval and imple-
120 mentation of the financial plans required by this section.

121 (f) Beginning on the first day of January, two thousand,
122 and every year thereafter, the finance board shall submit
123 to the governor and the Legislature a prospective financial
124 plan, for a period not to exceed five years, for the pro-
125 grams provided for in this article. Factors that the board
126 shall consider include, but shall not be limited to, the
127 trends for the program and the industry; the medical rate
128 of inflation; utilization patterns; cost of services; and
129 specific information such as average age of employee
130 population, active to retiree ratios, the service delivery
131 system and health status of the population.

132 (g) The prospective financial plans shall be based on the
133 estimated revenues submitted in accordance with subdivi-
134 sion (4), subsection (d) of this section and shall include an
135 average of the projected cost-sharing percentages of
136 premiums and an average of the projected deductibles and
137 copays for the various programs. Beginning in the plan
138 year which commences on the first day of July, two
139 thousand two, and in each plan year thereafter, until and
140 including the plan year which commences on the first day
141 of July, two thousand six, the prospective plans shall
142 include incremental adjustments toward the ultimate level
143 required in this subsection in the aggregate cost-sharing
144 percentages of premium between employers and employ-
145 ees. Effective in the plan year commencing on the first day
146 of July, two thousand six, and in each plan year thereafter,

147 the aggregate premium cost-sharing percentages between
148 employers and employees shall be at a level of eighty
149 percent for the employer and twenty percent for employ-
150 ees, except for the employers provided for in subsection
151 (d), section eighteen of this article whose premium cost-
152 sharing percentages shall be governed by that subsection.
153 After the submission of the initial prospective plan, the
154 board may not increase costs to the participating employ-
155 ers or change the average of the premiums, deductibles
156 and copays for employees, except in the event of a true
157 emergency as provided for in this section: *Provided, That*
158 if the board invokes the emergency provisions, the cost
159 shall be borne between the employers and employees in
160 proportion to the cost-sharing ratio for that plan year:
161 *Provided, however, That* for purposes of this section,
162 “emergency” means that the most recent projections
163 demonstrate that plan expenses will exceed plan revenues
164 by more than one percent in any plan year.

165 (h) The finance board shall meet on at least a quarterly
166 basis to review implementation of its current financial
167 plan in light of the actual experience of the public employ-
168 ees insurance agency. The board shall review actual costs
169 incurred, any revised cost estimates provided by the
170 actuary, expenditures and any other factors affecting the
171 fiscal stability of the plan and may make any additional
172 modifications to the plan necessary to ensure that the total
173 financial requirements of the agency for the current fiscal
174 year are met. The financial board may not increase the
175 types and levels of cost to employees during its quarterly
176 review except in the event of a true emergency.

177 (i) For any fiscal year in which legislative appropriations
178 differ from the governor’s estimate of general and special
179 revenues available to the agency, the finance board shall,
180 within thirty days after passage of the budget bill, make
181 any modifications to the plan necessary to ensure that the
182 total financial requirements of the agency for the current
183 fiscal year are met.

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

Carly Fiorino
.....
Chairman Senate Committee

W. James Garcher
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Russell K. Roberts
.....
Clerk of the Senate

Bryan W. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is* approved this the *10th*
Day of *May*, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

5/4/01

Time

9:35am