

Senate Bill No. 499

(By Senators Prezioso and Snyder)

[Introduced February 2, 2012; referred to
the Committee on Banking and Insurance; and then to
the Committee on the Judiciary.]

A BILL to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended, relating to the nonapplicability of chapter thirty-three of this code, regulating insurance, to the Public Employees Insurance Agency.

Be it enacted by the Legislature of West Virginia:

That §5-16-22 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.**

§5-16-22. Permissive participation; exemptions.

- 1 The provisions of this article are not mandatory upon any
- 2 employee or employer who is not an employee of or is not the
- 3 State of West Virginia, its boards, agencies, commissions,

4 departments, institutions or spending units or a county board
5 of education, and nothing contained in this article ~~may be~~
6 ~~construed so as to compel~~ compels any employee or employer
7 to enroll in or subscribe to any insurance plan authorized by
8 the provisions of this article.

9 Those employees enrolled in the insurance program
10 authorized under the provisions of article two-b, chapter
11 twenty-one-a of this code ~~may~~ are not be required to enroll
12 in or subscribe to an insurance plan or plans authorized by
13 the provisions of this article, and the employees of any
14 department which has an existing insurance program for its
15 employees to which the government of the United States
16 contributes any part or all of the premium or cost of the
17 premium may be exempted from the provisions of this
18 article. Any employee or employer exempted under the
19 provisions of this paragraph may enroll in any insurance
20 program authorized by the provisions of this article at any
21 time, to the same extent as any other qualified employee or
22 employer, but employee or employer may not remain enrolled
23 in both programs. ~~The provisions of articles fourteen, fifteen~~
24 ~~and sixteen, chapter thirty-three of this code, relating to~~
25 ~~group life insurance, accident and sickness insurance, and~~

26 ~~group accident and sickness insurance, are not applicable to~~
27 ~~the provisions of this article whenever the provisions of~~
28 ~~articles fourteen, fifteen and sixteen, chapter thirty-three of~~
29 ~~this code are in conflict with or contrary to any provision set~~
30 ~~forth in this article or to any plan or plans established by the~~
31 ~~Public Employees Insurance Agency. The provisions of~~
32 ~~chapter thirty-three of this code are not applicable to this~~
33 ~~article or to any plan established or administered by the~~
34 ~~Public Employees Insurance Agency, except for any provi-~~
35 ~~sion of that chapter that is expressly and specifically made~~
36 ~~applicable to this article or a plan established or adminis-~~
37 ~~tered by the Public Employees Insurance Agency in chapter~~
38 ~~thirty-three of this code. Notwithstanding any other provi-~~
39 ~~sion of this code to the contrary, the Public Employees~~
40 ~~Insurance Agency is not an “insurer” or engaged in the~~
41 ~~“business of insurance” as defined in chapter thirty-three of~~
42 ~~this code.~~

43 Employers, other than the State of West Virginia, its
44 boards, agencies, commissions, departments, institutions,
45 spending units or a county board of education are exempt
46 from participating in the insurance program provided for by
47 the provisions of this article unless participation by the

48 employer has been approved by a majority vote of the
49 employer's governing body. It is the duty of the clerk or
50 secretary of the governing body of an employer who by
51 majority vote becomes a participant in the insurance pro-
52 gram to notify the director not later than ten days after the
53 vote.

54 Any employer, whether the employer participates in the
55 Public Employees Insurance Agency insurance program as a
56 group or not, which has retired employees, their dependents
57 or surviving dependents of deceased retired employees who
58 participate in the Public Employees Insurance Agency
59 insurance program as authorized by this article, shall pay to
60 the agency the same contribution toward the cost of coverage
61 for its retired employees, their dependents or surviving
62 dependents of deceased retired employees as the State of
63 West Virginia, its boards, agencies, commissions, depart-
64 ments, institutions, spending units or a county board of
65 education pay for their retired employees, their dependents
66 and surviving dependents of deceased retired employees, as
67 determined by the finance board: *Provided*, That after June
68 30, 1996, an employer not mandated to participate in the
69 plan is only required to pay a contribution toward the cost of

70 coverage for its retired employees, their dependents or the
71 surviving dependents of deceased retired employees who
72 elect coverage when the retired employee participated in the
73 plan as an active employee of the employer for at least five
74 years: *Provided, however,* That those retired employees of an
75 employer not participating in the plan who retire on or after
76 July 1, 2010, who have participated in the plan as active
77 employees of the employer for less than five years are
78 responsible for the entire premium cost for coverage and the
79 Public Employees Insurance Agency shall bill for and collect
80 the entire premium from the retired employees, unless the
81 employer elects to pay the employer share of the premium.
82 Each employer is ~~hereby~~ authorized and required to budget
83 for and make ~~such~~ payments ~~as are~~ required by this section.

(NOTE: The purpose of this bill is to expressly exempt the Public Employees Insurance Agency or any plan established by the Public Employees Insurance Agency from the requirements of the insurance provisions of chapter thirty-three of this code, except where those provisions are made expressly applicable to the Public Employees Insurance Agency in chapter thirty-three.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)