

**H. B. 2383**

(By Delegate Rodighiero)

[Introduced January 27, 2015; referred to the  
Committee on Banking and Insurance then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to  
freezing employee premiums at the current level until July 1, 2018.

*Be it enacted by the Legislature of West Virginia:*

That §5-16-5 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.**

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

(a) The purpose of the finance board created by this article is to bring fiscal stability to the  
Public Employees Insurance Agency through development of annual financial plans and long-range  
plans designed to meet the agency's estimated total financial requirements, taking into account all  
revenues projected to be made available to the agency and apportioning necessary costs equitably  
among participating employers, employees and retired employees and providers of health care

1 services.

2 (b) The finance board shall retain the services of an impartial, professional actuary, with  
3 demonstrated experience in analysis of large group health insurance plans, to estimate the total  
4 financial requirements of the Public Employees Insurance Agency for each fiscal year and to review  
5 and render written professional opinions as to financial plans proposed by the finance board. The  
6 actuary shall also assist in the development of alternative financing options and perform any other  
7 services requested by the finance board or the director. All reasonable fees and expenses for  
8 actuarial services shall be paid by the Public Employees Insurance Agency. Any financial plan or  
9 modifications to a financial plan approved or proposed by the finance board pursuant to this section  
10 shall be submitted to and reviewed by the actuary and may not be finally approved and submitted  
11 to the Governor and to the Legislature without the actuary's written professional opinion that the plan  
12 may be reasonably expected to generate sufficient revenues to meet all estimated program and  
13 administrative costs of the agency, including incurred but unreported claims, for the fiscal year for  
14 which the plan is proposed. The actuary's opinion on the financial plan for each fiscal year shall  
15 allow for no more than thirty days of accounts payable to be carried over into the next fiscal year.  
16 The actuary's opinion for any fiscal year shall not include a requirement for establishment of a  
17 reserve fund.

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

19 (1) Maximum levels of reimbursement which the Public Employees Insurance Agency makes  
20 to categories of health care providers;

21 (2) Any necessary cost-containment measures for implementation by the director;

22 (3) The levels of premium costs to participating employers; and

1 (4) The types and levels of cost to participating employees and retired employees.

2 The financial plans may provide for different levels of costs based on the insureds' ability to  
3 pay. The finance board may establish different levels of costs to retired employees based upon  
4 length of employment with a participating employer, ability to pay or other relevant factors. The  
5 financial plans may also include optional alternative benefit plans with alternative types and levels  
6 of cost. The finance board may develop policies which encourage the use of West Virginia health  
7 care providers.

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

11 (d) (1) The finance board shall prepare an annual financial plan for each fiscal year during  
12 which the finance board remains in existence. The finance board chairman shall request the actuary  
13 to estimate the total financial requirements of the Public Employees Insurance Agency for the fiscal  
14 year.

15 (2) The finance board shall prepare a proposed financial plan designed to generate revenues  
16 sufficient to meet all estimated program and administrative costs of the Public Employees Insurance  
17 Agency for the fiscal year. The proposed financial plan shall allow for no more than thirty days of  
18 accounts payable to be carried over into the next fiscal year. Before final adoption of the proposed  
19 financial plan, the finance board shall request the actuary to review the plan and to render a written  
20 professional opinion stating whether the plan will generate sufficient revenues to meet all estimated  
21 program and administrative costs of the Public Employees Insurance Agency for the fiscal year. The  
22 actuary's report shall explain the basis of its opinion. If the actuary concludes that the proposed

1 financial plan will not generate sufficient revenues to meet all anticipated costs, then the finance  
2 board shall make necessary modifications to the proposed plan to ensure that all actuarially  
3 determined financial requirements of the agency will be met.

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

7 (4) Any financial plan shall be designed to allow thirty days or less of accounts payable to  
8 be carried over into the next fiscal year. For each fiscal year, the Governor shall provide his or her  
9 estimate of total revenues to the finance board no later than October 15 of the preceding fiscal year:  
10 *Provided, That, for the prospective financial plans required by this section, the Governor shall*  
11 *estimate the revenues available for each fiscal year of the plans based on the estimated percentage*  
12 *of growth in general fund revenues. The finance board shall submit its final, approved financial*  
13 *plan, after obtaining the necessary actuary's opinion and conducting one or more public hearings in*  
14 *each congressional district, to the Governor and to the Legislature no later than January 1, preceding*  
15 *the fiscal year. The financial plan for a fiscal year becomes effective and shall be implemented by*  
16 *the director on July 1 of the fiscal year. In addition to each final, approved financial plan required*  
17 *under this section, the finance board shall also simultaneously submit financial statements based on*  
18 *generally accepted accounting practices (GAAP) and the final, approved plan restated on an accrual*  
19 *basis of accounting, which shall include allowances for incurred but not reported claims: *Provided,**  
20 *however, That the financial statements and the accrual-based financial plan restatement shall not*  
21 *affect the approved financial plan.*

22 (e) The provisions of chapter twenty-nine-a of this code shall not apply to the preparation,

1 approval and implementation of the financial plans required by this section.

2 (f) By January 1 of each year the finance board shall submit to the Governor and the  
3 Legislature a prospective financial plan, for a period not to exceed five years, for the programs  
4 provided in this article. Factors that the board shall consider include, but are not limited to, the  
5 trends for the program and the industry; the medical rate of inflation; utilization patterns; cost of  
6 services; and specific information such as average age of employee population, active to retiree  
7 ratios, the service delivery system and health status of the population.

8 (g) The prospective financial plans shall be based on the estimated revenues submitted in  
9 accordance with subdivision (4), subsection (d) of this section and shall include an average of the  
10 projected cost-sharing percentages of premiums and an average of the projected deductibles and  
11 copays for the various programs. ~~Beginning in the plan year which commences on July 1, 2002, and~~  
12 ~~in each plan year thereafter, until and including the plan year which commences on July 1, 2006, the~~  
13 ~~prospective plans shall include incremental adjustments toward the ultimate level required in this~~  
14 ~~subsection, in the aggregate cost-sharing percentages of premium between employers and employees,~~  
15 ~~including the amounts of any subsidization of retired employee benefits.~~ Effective in the plan year  
16 commencing on July 1, 2006, and in each plan year thereafter, the aggregate premium cost-sharing  
17 percentages between employers and employees, including the amounts of any subsidization of retired  
18 employee benefits, shall be at a level of eighty percent for the employer and twenty percent for  
19 employees, except for the employers provided in subsection (d), section eighteen of this article  
20 whose premium cost-sharing percentages shall be governed by that subsection. For the plan year  
21 commencing on July 1, 2015, and in each plan year thereafter until the plan year commencing July  
22 1, 2018, the premiums for employees shall remain at the current level. After the submission of the

1 initial prospective plan, the board may not increase costs to the participating employers or change  
2 the average of the premiums, deductibles and copays for employees, except in the event of a true  
3 emergency as provided in this section: *Provided*, That if the board invokes the emergency  
4 provisions, the cost shall be borne between the employers and employees in proportion to the  
5 cost-sharing ratio for that plan year: *Provided, however*, That for purposes of this section,  
6 "emergency" means that the most recent projections demonstrate that plan expenses will exceed plan  
7 revenues by more than one percent in any plan year: *Provided further*, That the aggregate premium  
8 cost-sharing percentages between employers and employees, including the amounts of any  
9 subsidization of retired employee benefits, may be offset, in part, by a legislative appropriation for  
10 that purpose.

11 (h) The finance board shall meet on at least a quarterly basis to review implementation of its  
12 current financial plan in light of the actual experience of the Public Employees Insurance Agency.  
13 The board shall review actual costs incurred, any revised cost estimates provided by the actuary,  
14 expenditures and any other factors affecting the fiscal stability of the plan and may make any  
15 additional modifications to the plan necessary to ensure that the total financial requirements of the  
16 agency for the current fiscal year are met. The finance board may not increase the types and levels  
17 of cost to employees during its quarterly review except in the event of a true emergency.

18 (i) For any fiscal year in which legislative appropriations differ from the Governor's estimate  
19 of general and special revenues available to the agency, the finance board shall, within thirty days  
20 after passage of the budget bill, make any modifications to the plan necessary to ensure that the total  
21 financial requirements of the agency for the current fiscal year are met.

NOTE: The purpose of this bill is to freeze PEIA employee premiums for three years.

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