

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 517**

BY SENATORS GAUNCH AND TRUMP, *original sponsors*

[Passed March 11, 2016; in effect 90 days from  
passage]

1 AN ACT to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended, relating  
2 to Public Employees Insurance Agency; clarifying that plans established and administered  
3 by Public Employees Insurance Agency are exempt from regulation by Insurance  
4 Commissioner unless specifically stated otherwise; and providing that Public Employees  
5 Insurance Agency is not an insurer or in the business of insurance.

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

1 That §5-16-22 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

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

3 The provisions of this article are not mandatory upon any employee or employer who is  
4 not an employee of, or is not, the State of West Virginia, its boards, agencies, commissions,  
5 departments, institutions or spending units or a county board of education and nothing contained  
6 in this article compels any employee or employer to enroll in or subscribe to any insurance plan  
7 authorized by the provisions of this article.

8 Those employees enrolled in the insurance program authorized under the provisions of  
9 article two-b, chapter twenty-one-a of this code are not required to enroll in or subscribe to an  
10 insurance plan or plans authorized by the provisions of this article, and the employees of any  
11 department which has an existing insurance program for its employees to which the government  
12 of the United States contributes any part or all of the premium or cost of the premium may be  
13 exempted from the provisions of this article. Any employee or employer exempted under the  
14 provisions of this paragraph may enroll in any insurance program authorized by the provisions of  
15 this article at any time, to the same extent as any other qualified employee or employer, but  
16 employee or employer may not remain enrolled in both programs.

17 Any plan established or administered by the Public Employees Insurance Agency  
18 pursuant to this article is exempt from the provisions of chapter thirty-three of this code unless

19 explicitly stated. Notwithstanding any provision of this code to the contrary, the Public Employees  
20 Insurance Agency is not an insurer or engaged in the business of insurance as defined in chapter  
21 thirty-three of this code.

22         Employers, other than the State of West Virginia, its boards, agencies, commissions,  
23 departments, institutions, spending units or a county board of education, are exempt from  
24 participating in the insurance program provided for by the provisions of this article unless  
25 participation by the employer has been approved by a majority vote of the employer's governing  
26 body. It is the duty of the clerk or secretary of the governing body of an employer who by majority  
27 vote becomes a participant in the insurance program to notify the director not later than ten days  
28 after the vote.

29         Any employer, whether the employer participates in the Public Employees Insurance  
30 Agency insurance program as a group or not, which has retired employees, their dependents or  
31 surviving dependents of deceased retired employees who participate in the Public Employees  
32 Insurance Agency insurance program as authorized by this article, shall pay to the agency the  
33 same contribution toward the cost of coverage for its retired employees, their dependents or  
34 surviving dependents of deceased retired employees as the State of West Virginia, its boards,  
35 agencies, commissions, departments, institutions, spending units or a county board of education  
36 pay for their retired employees, their dependents and surviving dependents of deceased retired  
37 employees, as determined by the finance board: *Provided*, That after June 30, 1996, an employer  
38 not mandated to participate in the plan is only required to pay a contribution toward the cost of  
39 coverage for its retired employees, their dependents or the surviving dependents of deceased  
40 retired employees who elect coverage when the retired employee participated in the plan as an  
41 active employee of the employer for at least five years: *Provided, however*, That those retired  
42 employees of an employer not participating in the plan who retire on or after July 1, 2010, who  
43 have participated in the plan as active employees of the employer for less than five years are  
44 responsible for the entire premium cost for coverage and the Public Employees Insurance Agency

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45 shall bill for and collect the entire premium from the retired employees, unless the employer elects  
46 to pay the employer share of the premium. Each employer is hereby authorized and required to  
47 budget for and make such payments as are required by this section.