

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Enrolled**

**Senate Bill 339**

BY SENATORS GAUNCH AND BLAIR

[Passed March 10, 2018; in effect 90 days from passage]



1 AN ACT to amend and reenact §5-16D-1, §5-16D-3, §5-16D-4, and §5-16D-6 of the Code of West  
2 Virginia, 1931, as amended, all relating to the West Virginia Retirement Health Benefit  
3 Trust Fund within the Public Employees Insurance Agency; modifying definitions to  
4 provide flexibility for compliance with the Governmental Accounting Standards Board  
5 guidance; defining new terms; and allowing the current allocation process for unfunded  
6 liability to continue.

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

**ARTICLE 16D. WEST VIRGINIA RETIREMENT HEALTH BENEFIT TRUST FUND.**

**§5-16D-1. Definitions.**

1 As used in this article, the term:

2 (a) "Actuarial cost method" means a method for determining the actuarial present value of  
3 the obligations and administrative expenses of the fund and for developing an actuarially  
4 equivalent allocation of the value to time periods, usually in the form of a normal cost and a total  
5 other post-employment benefits liability. Acceptable actuarial methods are the aggregate,  
6 attained age, entry age, frozen attained age, frozen entry age, and projected unit credit methods.

7 (b) "Actuarially sound" means that calculated contributions to the fund are sufficient to pay  
8 the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing  
9 for fund obligations as they accrue in the future and the cost of amortizing the unfunded total other  
10 post-employment benefits liability over a period of no more than 30 years.

11 (c) "Actuarial present value of total projected benefits" means the present value, at the  
12 valuation date, of the cost to finance benefits payable in the future, discounted to reflect the  
13 expected effects of the time value of money and the probability of payment.

14 (d) "Actuarial assumptions" means assumptions regarding the occurrence of future events  
15 affecting the fund such as mortality, withdrawal, disability, and retirement; changes in  
16 compensation and offered post-employment benefits; rates of investment earnings and other

17 asset appreciation or depreciation; procedures used to determine the actuarial value of assets;  
18 and other relevant items.

19 (e) "Actuarial valuation" means the determination, as of a valuation date, of the normal  
20 cost, total other post-employment benefits liability, actuarial value of assets, and related actuarial  
21 present values for the fund.

22 (f) "Administrative expenses" means all expenses incurred in the operation of the fund,  
23 including all investment expenses.

24 (g) "Board" means the Public Employees Insurance Agency Finance Board created in §5-  
25 16-4 of this code.

26 (h) "Collective net other post-employment benefits liability" means for any actuarial  
27 valuation, the excess of the plan's total other post-employment benefits liability over the actuarial  
28 value of the assets of the fund under an actuarial cost method used by the fund for funding  
29 purposes.

30 (i) "Cost-sharing multiple employer plan" means a single plan with pooling (cost-sharing)  
31 arrangements for the participating employers. All risk, rewards, and costs, including benefit costs,  
32 are shared and not attributed individually to the employers. A single actuarial valuation covers all  
33 plan members and the same contribution rate applies for each employer.

34 (j) "Covered health care expenses" means all actual health care expenses paid by the  
35 health plan on behalf of fund beneficiaries. Actual health care expenses include claims payments  
36 to providers and premiums paid to intermediary entities and health care providers by the health  
37 plan.

38 (k) "Employer" means any employer as defined by §5-16-2 of this code which has or will  
39 have retired employees in any Public Employees Insurance Agency health plan.

40 (l) "Fund" means the West Virginia Retiree Health Benefit Trust Fund established under  
41 this article.

42 (m) "Fund beneficiaries" means all persons receiving post-employment health care  
43 benefits through the health plan.

44 (n) "Health plan" means the health insurance plan or plans established under §5-16-1 *et*  
45 *seq.* of this code.

46 (o) "Minimum annual employer payment" means the annual amount paid by employers  
47 which, when combined with the retirees' contributions on their premiums that year, provide  
48 sufficient funds such that the annual finance plan of the finance board will cover all projected  
49 retiree covered health care expenses and related administrative costs for that year. The finance  
50 board shall develop the minimum annual employer payment as part of its financial plan each year  
51 as addressed in §5-16-5 of this code.

52 (p) "Normal cost" means that portion of the actuarial present value of the fund obligations  
53 and expenses which is allocated to a valuation year by the actuarial cost method used for the  
54 fund.

55 (q) "Obligations" means the administrative expenses of the fund and the cost of covered  
56 health care expenses incurred on behalf of fund beneficiaries.

57 (r) "Other post-employment benefits" or "retiree post-employment health care benefits"  
58 means those benefits as addressed by governmental accounting standards board statement no.  
59 43 or any subsequent governmental standards board statement that may be applicable to the  
60 fund.

61 (s) "Plan for other post-employment benefits" means the fiscal funding plan for retiree post-  
62 employment health care benefits as it relates to governmental accounting standards board  
63 statement no. 43 or any subsequent governmental accounting standards board statements that  
64 may be applicable to the fund.

65 (t) "Proportionate share" means the portion of the collective net other post-employment  
66 benefits liability that is attributed to, and the responsibility of, a particular employer.

67 (u) "Retiree" means retired employee as defined by §5-16-2 of this code.

68 (v) "Retirement system" or "system" means the West Virginia Consolidated Public  
69 Retirement Board created and established by §5-10-1 *et seq.* of this code and includes any  
70 retirement systems or funds administered or overseen by the Consolidated Public Retirement  
71 Board.

72 (w) "Total other post-employment benefits liability" means that portion, as determined by  
73 a particular actuarial cost method, of the actuarial present value of fund obligations and  
74 administrative expenses which is not provided by future normal costs.

**§5-16D-3. Operation of trust fund.**

1 (a) Responsibility for the rules and policies for the proper operation of the fund is vested  
2 in the board.

3 (b) The board shall adopt actuarial assumptions as it deems necessary and prudent.

4 (c) The board shall determine the contribution rates in an actuarially sound manner and  
5 each employer's proportionate share sufficient to maintain the fund in accordance with the state  
6 plan for other post-employment benefits.

7 (d) The board may promulgate, in accordance with §29A-1-1 *et seq.* of this code, any rules  
8 it finds necessary to properly administer the fund. The board may promulgate emergency rules  
9 pursuant to the provisions of §29A-3-15 of this code.

10 (e) The Public Employees Insurance Agency shall furnish reports to the board at each of  
11 the board's regularly scheduled meetings. The reports shall contain the most recent information  
12 reasonably available to the Public Employees Insurance Agency reflecting the obligations of the  
13 fund, earnings on investments, and such other information as the board deems necessary and  
14 appropriate.

15 (f) The Secretary of the Department of Administration, as chair of the board, shall cause  
16 to be employed within the Public Employees Insurance Agency such personnel as may be needed  
17 to carry out the provisions of this article. The pro rata share of the costs to the Public Employees

18 Insurance Agency of operating the fund shall be part of the administrative costs of the fund and  
19 shall be reimbursed to the Public Employees Insurance Agency.

20 (g) The Public Employees Insurance Agency, on the board's behalf, shall be responsible  
21 for the day-to-day operation of the fund and may employ or contract for the services of actuaries  
22 and other professionals as required to carry out the duties established by this article.

23 (h) The board shall contract with the West Virginia Investment Management Board for any  
24 necessary services with respect to fund investments.

25 (i) The Public Employees Insurance Agency, on the board's behalf, shall maintain all  
26 necessary records regarding the fund in accordance with generally accepted accounting  
27 principles.

28 (j) The Public Employees Insurance Agency, on the board's behalf, shall collect all moneys  
29 due to the fund and shall pay current post-employment health care costs and any administrative  
30 expenses necessary and appropriate for the operation of the fund from the fund. The fund's assets  
31 shall be maintained and accounted for in state funds. The state funds shall be: (1) The Other  
32 Post-Employment Benefit Contribution Accumulation Fund; (2) the Other Post-Employment  
33 Benefit Investment Fund; and (3) the Other Post-Employment Benefit Expense Fund. These funds  
34 will be maintained by the Public Employees Insurance Agency on the board's behalf.

35 (k) The Public Employees Insurance Agency, on the board's behalf, shall prepare an  
36 annual report of fund activities. The report shall include, but not be limited to, independently  
37 audited financial statements in accordance with generally accepted accounting principles. The  
38 financial statements must be independently audited in accordance with auditing standards  
39 generally accepted in the United States and the standards applicable to financial audits contained  
40 in government auditing standards as issued by the Comptroller General of the United States.

41 (l) Notwithstanding any other provision of law to the contrary, the Public Employees  
42 Insurance Agency shall be entitled to request and receive any information that it deems necessary

43 and appropriate from any relevant retirement system in order that the provisions of this article  
44 may be carried out.

**§5-16D-4. Actuary.**

1 (a) The actuary employed or retained by the Public Employees Insurance Agency shall  
2 provide technical advice to the Public Employees Insurance Agency and to the board regarding  
3 the operation of the fund.

4 (b) Using the actuarial assumptions most recently adopted by the board, the actuary shall,  
5 on a biannual basis, or as frequently as the board or generally accepted accounting principles  
6 deems necessary, set actuarial valuations of normal cost, actuarial liability, actuarial value of  
7 assets, and related actuarial present values for the state plan for other post-employment benefits.

**§5-16D-6. Mandatory employer contributions.**

1 (a) The board shall annually set the minimum annual employer payment sufficient to  
2 maintain the fund in an actuarially sound manner in accordance with generally accepted  
3 accounting principles and the annual finance plan.

4 (b) The board shall annually allocate to the respective employers the employer's  
5 proportionate share of the collective net other post-employment liability as determined by the  
6 actuarial valuation in accordance with generally accepted accounting principles.

7 (c) Employers shall make annual contributions to the fund in, at least, the amount of the  
8 minimum annual employer payment rates established by the board.

9 (d) The Public Employees Insurance Agency shall bill each employer for the minimum  
10 annual employer payment. The Public Employees Insurance Agency shall annually collect the  
11 minimum annual employer payment. Any employer's proportionate share of the collective net  
12 other post-employment amount not satisfied by the respective employer shall remain the liability  
13 of that employer until fully paid or otherwise amortized.



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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2018.

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*Governor*