

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 340

[Introduced January 23, 2018; Referred
to the Committee on Government Organization; and
then to the Committee on Finance]

1 A BILL to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating
 2 to the employer-employee cost-sharing ratio of premiums from active members of the
 3 Public Employees Insurance Agency; and providing for a maximum percentage of
 4 premiums to be paid by employers.

Be it enacted by the Legislature of West Virginia:

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 article is to bring fiscal stability to the
 2 Public Employees Insurance Agency through development of annual financial plans and long-
 3 range plans designed to meet the agency’s estimated total financial requirements, taking into
 4 account all revenues projected to be made available to the agency and apportioning necessary
 5 costs equitably among participating employers, employees and retired employees and providers
 6 of health care services.

7 (b) The finance board shall retain the services of an impartial, professional actuary, with
 8 demonstrated experience in analysis of large group health insurance plans, to estimate the total
 9 financial requirements of the Public Employees Insurance Agency for each fiscal year and to
 10 review and render written professional opinions as to financial plans proposed by the finance
 11 board. The actuary shall also assist in the development of alternative financing options and
 12 perform any other services requested by the finance board or the director. All reasonable fees
 13 and expenses for actuarial services shall be paid by the Public Employees Insurance Agency.
 14 Any financial plan or modifications to a financial plan approved or proposed by the finance board
 15 pursuant to this section shall be submitted to and reviewed by the actuary and may not be finally
 16 approved and submitted to the Governor and to the Legislature without the actuary’s written
 17 professional opinion that the plan may be reasonably expected to generate sufficient revenues to
 18 meet all estimated program and administrative costs of the agency, including incurred but

19 unreported claims, for the fiscal year for which the plan is proposed. The actuary's opinion on the
20 financial plan for each fiscal year shall allow for no more than 30 days of accounts payable to be
21 carried over into the next fiscal year. The actuary's opinion for any fiscal year shall not include a
22 requirement for establishment of a reserve fund.

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

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

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

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

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

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

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

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

42 (2) The finance board shall prepare a proposed financial plan designed to generate
43 revenues sufficient to meet all estimated program and administrative costs of the Public
44 Employees Insurance Agency for the fiscal year. The proposed financial plan shall allow for no

45 more than thirty days of accounts payable to be carried over into the next fiscal year. Before final
46 adoption of the proposed financial plan, the finance board shall request the actuary to review the
47 plan and to render a written professional opinion stating whether the plan will generate sufficient
48 revenues to meet all estimated program and administrative costs of the Public Employees
49 Insurance Agency for the fiscal year. The actuary's report shall explain the basis of its opinion. If
50 the actuary concludes that the proposed financial plan will not generate sufficient revenues to
51 meet all anticipated costs, then the finance board shall make necessary modifications to the
52 proposed plan to ensure that all actuarially determined financial requirements of the agency will
53 be met.

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

57 (4) Any financial plan shall be designed to allow thirty days or less of accounts payable
58 to be carried over into the next fiscal year. For each fiscal year, the Governor shall provide his or
59 her estimate of total revenues to the finance board no later than the October 15th of the preceding
60 fiscal year: *Provided*, That, for the prospective financial plans required by this section, the
61 Governor shall estimate the revenues available for each fiscal year of the plans based on the
62 estimated percentage of growth in general fund revenues. The finance board shall submit its final,
63 approved financial plan, after obtaining the necessary actuary's opinion and conducting one or
64 more public hearings in each congressional district, to the Governor and to the Legislature no
65 later than January 1st of the preceding the fiscal year. The financial plan for a fiscal year becomes
66 effective and shall be implemented by the director on the July 1st of the fiscal year. In addition to
67 each final, approved financial plan required under this section, the finance board shall also
68 simultaneously submit financial statements based on generally accepted accounting practices
69 (GAAP) and the final, approved plan restated on an accrual basis of accounting, which shall
70 include allowances for incurred but not reported claims: *Provided, however*, That the financial

71 statements and the accrual-based financial plan restatement shall not affect the approved
72 financial plan.

73 (e) The provisions of §29A-1-1 *et seq.* of this code shall not apply to the preparation,
74 approval and implementation of the financial plans required by this section.

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

81 (g) The prospective financial plans shall be based on the estimated revenues submitted
82 in accordance with subdivision (4), subsection (d) of this section and shall include an average of
83 the projected cost-sharing percentages of premiums and an average of the projected deductibles
84 and copays for the various programs. Beginning in the plan year which commences on July 1,
85 2002, and in each plan year thereafter, until and including the plan year which commences on
86 July 1, 2006, the prospective plans shall include incremental adjustments toward the ultimate level
87 required in this subsection, in the aggregate cost-sharing percentages of premium between
88 employers and employees, including the amounts of any subsidization of retired employee
89 benefits. Effective in the plan year commencing on July 1, 2006, and in each plan year thereafter,
90 the aggregate premium cost-sharing percentages between employers and employees, including
91 the amounts of any subsidization of retired employee benefits, shall be at a level of no more than
92 eighty percent for the employer, ~~and twenty percent for employees~~ except for the employers
93 provided in §5-16-18(d) of this code whose premium cost-sharing percentages shall be governed
94 by that subsection. After the submission of the initial prospective plan, the board may not increase
95 costs to the participating employers or change the average of the premiums, deductibles and
96 copays for employees, except in the event of a true emergency as provided in this section:

97 *Provided*, That if the board invokes the emergency provisions, the cost shall be borne between
98 the employers and employees in proportion to the cost-sharing ratio for that plan year: *Provided*,
99 *however*, That for purposes of this section, “emergency” means that the most recent projections
100 demonstrate that plan expenses will exceed plan revenues by more than one percent in any plan
101 year: *Provided further*, That the aggregate premium cost-sharing percentages between
102 employers and employees, including the amounts of any subsidization of retired employee
103 benefits, may be offset, in part, by a legislative appropriation for that purpose.

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

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

NOTE: The purpose of this bill is to change the required ratio of employer and employee cost sharing of premium for active members from 80 percent employer, 20 percent employee, to maintain the employer’s portion as a maximum of 80 percent while providing the flexibility necessary to adjust the cost-sharing percentages between employers and employees so that greater reductions in employee benefits and increases in employee deductibles may be avoided or mitigated in the future.

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