

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

Introduced

### House Bill 2020

FISCAL  
NOTE

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[Introduced February 8, 2017; Referred  
to the Committee on Banking and Insurance then Finance]

1 A BILL to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating  
2 to freezing employee premiums at the current level until July 1, 2020.

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

1 That §5-16-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
2 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.**

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

70 incurred but not reported claims: *Provided, however,* That the financial statements and the  
71 accrual-based financial plan restatement shall not affect the approved financial plan.

72 (e) The provisions of chapter twenty-nine-a of this code shall not apply to the preparation,  
73 approval and implementation of the financial plans required by this section.

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

80 (g) The prospective financial plans shall be based on the estimated revenues submitted  
81 in accordance with subdivision (4), subsection (d) of this section and shall include an average of  
82 the projected cost-sharing percentages of premiums and an average of the projected deductibles  
83 and copays for the various programs. ~~Beginning in the plan year which commences on July 1,~~  
84 ~~2002, and in each plan year thereafter, until and including the plan year which commences on~~  
85 ~~July 1, 2006, the prospective plans shall include incremental adjustments toward the ultimate level~~  
86 ~~required in this subsection, in the aggregate cost-sharing percentages of premium between~~  
87 ~~employers and employees, including the amounts of any subsidization of retired employee~~  
88 ~~benefits~~ Effective in the plan year commencing on July 1, 2006, and in each plan year thereafter,  
89 the aggregate premium cost-sharing percentages between employers and employees, including  
90 the amounts of any subsidization of retired employee benefits, shall be at a level of eighty percent  
91 for the employer and twenty percent for employees, except for the employers provided in  
92 subsection (d), section eighteen of this article whose premium cost-sharing percentages shall be  
93 governed by that subsection. For the plan year commencing on July 1, 2017, and in each plan  
94 year thereafter until the plan year commencing July 1, 2020, the premiums for employees shall  
95 remain at the current level. After the submission of the initial prospective plan, the board may not

96 increase costs to the participating employers or change the average of the premiums, deductibles  
97 and copays for employees, except in the event of a true emergency as provided in this section:  
98 *Provided*, That if the board invokes the emergency provisions, the cost shall be borne between  
99 the employers and employees in proportion to the cost-sharing ratio for that plan year: *Provided*,  
100 *however*, That for purposes of this section, "emergency" means that the most recent projections  
101 demonstrate that plan expenses will exceed plan revenues by more than one percent in any plan  
102 year: *Provided further*, That the aggregate premium cost-sharing percentages between  
103 employers and employees, including the amounts of any subsidization of retired employee  
104 benefits, may be offset, in part, by a legislative appropriation for that purpose.

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

113 (i) For any fiscal year in which legislative appropriations differ from the Governor's estimate  
114 of general and special revenues available to the agency, the finance board shall, within thirty days  
115 after passage of the budget bill, make any modifications to the plan necessary to ensure that the  
116 total 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 a heading or the present law,  
and underscoring indicates new language that would be added.