WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2281

FISCAL NOTE

BY DELEGATE BATES

[Introduced February 10, 2021; Referred

to the Committee on Banking and Insurance then the

Judiciary]

A BILL to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to modifying the method of calculation of the employer and employee contribution percentages for public employee insurance premiums.

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.

(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 services.

(b) The finance board shall retain the services of an impartial, professional actuary, with demonstrated experience in analysis of large group health insurance plans, to estimate the total financial requirements of the Public Employees Insurance Agency for each fiscal year and to review and render written professional opinions as to financial plans proposed by the finance board. The actuary shall also assist in the development of alternative financing options and perform any other services requested by the finance board or the director. All reasonable fees and expenses for actuarial services shall be paid by the Public Employees Insurance Agency. <u>The actuary shall submit a projection of the increase in expenditures for employees' health insurance benefits for the next plan year finance board.</u> Any financial plan or modifications to a financial plan approved or proposed by the finance board pursuant to this section shall be submitted to and reviewed by the actuary and may not be finally approved and submitted to the Governor and to the Legislature without the actuary's written professional opinion that the plan may be reasonably expected to generate sufficient revenues to meet all estimated program and administrative costs of the agency, including incurred but unreported claims, for the fiscal year for which the plan is proposed. The actuary's opinion on the financial plan for each fiscal year shall allow for no more than 30 days of accounts payable to be carried over into the next fiscal year. The actuary's opinion for any fiscal year shall not include a requirement for establishment of a reserve fund.

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

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

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

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

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

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

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

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

(2) The finance board shall prepare a proposed financial plan designed to generate revenues sufficient to meet all estimated program and administrative costs of the Public

Employees Insurance Agency for the fiscal year. The proposed financial plan shall allow for no more than 30 days of accounts payable to be carried over into the next fiscal year. Before final adoption of the proposed financial plan, the finance board shall request the actuary to review the plan and to render a written professional opinion stating whether the plan will generate sufficient revenues to meet all estimated program and administrative costs of the Public Employees Insurance Agency for the fiscal year. The actuary's report shall explain the basis of its opinion. If the actuary concludes that the proposed financial plan will not generate sufficient revenues to meet all anticipated costs, then the finance board shall make necessary modifications to the proposed plan to ensure that all actuarially determined financial requirements of the agency ~~will~~ <u>shall</u> be met.

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

(4) Any financial plan shall be designed to allow 30 days or less of accounts payable to be carried over into the next fiscal year. For each fiscal year, the Governor shall provide his or her estimate of total revenues to the finance board no later than October 15, of the preceding fiscal year: *Provided,* That, <u>beginning October 15, 2021, and each year thereafter, the Governor's estimate of the total revenues shall include at least 80 percent of the projected growth in expenditures for employees health insurance as projected by the actuary: *Provided, however*, That</u> for the prospective financial plans required by this section, the Governor shall estimate the revenues available for each fiscal year of the plans based on the estimated percentage of growth in general fund revenues. The finance board shall submit its final, approved financial plan, after obtaining the necessary actuary's opinion and conducting one or more public hearings in each congressional district, to the Governor and to the Legislature no later than January 1, preceding the fiscal year. This estimated available revenue figure shall <u>become final by the 16th day after the first day of commencement of each legislative session.</u> The financial plan for a fiscal year

becomes effective and shall be implemented by the director on July 1, of the fiscal year. In addition to each final, approved financial plan required under this section, the finance board shall also simultaneously submit financial statements based on generally accepted accounting practices (GAAP) and the final, approved plan restated on an accrual basis of accounting, which shall include allowances for incurred but not reported claims: *Provided,* That the financial statements and the accrual-based financial plan restatement ~~shall~~ <u>may</u> not affect the approved financial plan.

(e) The provisions of Chapter 29A of this code ~~shall~~ <u>may</u> not apply to the preparation, approval and implementation of the financial plans required by this section.

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

(g) The prospective financial plans shall be based on the estimated revenues submitted in accordance with subdivision (4), subsection (d) of this section and shall include an average of the projected cost-sharing percentages of premiums and an average of the projected deductibles and copays for the various programs. Beginning in the plan year which commences on July 1, 2002, and in each plan year thereafter, until and including the plan year which commences on July 1, 2006, the prospective plans shall include incremental adjustments toward the ultimate level required in this subsection, in the aggregate cost-sharing percentages of premium between employers and employees, including the amounts of any subsidization of retired employee benefits. Effective in the plan year commencing on July 1, 2006, ~~and in each plan year thereafter~~ <u>through the plan year commencing on July 1, 2021,</u> the aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, shall be at a level of 80 percent for the employer and 20 percent for employees, except for the employers provided in §5-16-18(d) of this code whose premium cost-sharing percentages shall be governed by that subsection. Beginning with the plan year commencing on July 1, 2022, and each year thereafter, the finance board may not increase in the aggregate the employees' premium and cost-sharing provisions that are in effect for the plan year commencing July 1, 2021, other than adjustments for the projected growth in employees' health insurance expenditures. For the plan year commencing on July 1, 2021, and each year thereafter, the Legislature shall appropriate in general and special revenues at least 80 percent of the projected growth in employees' health insurance expenditures as determined by the actuary: *Provided,* That if the Legislature has appropriated more than 80 percent in the previous year, the Legislature can reduce their share of the growth in employees' health insurance expenditures by the percent funded by Legislature over 80 percent for one year: *Provided, however*, That the Legislature's share of the growth in employees' health insurance expenditures may not be less than 70 percent. The employees' share of the projected growth in employees' health insurance expenditures as determined by the actuary may not be more than 20 percent. The finance board shall establish the employees' 20 percent share of projected increases in employees' health insurance expenditures through increases in any combination of premiums, reduction in benefits, deductibles, copayments, co-insurances, out-of-pocket maximums or incentives for wellness.

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

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

~~(i)~~ (j) For any fiscal year in which legislative appropriations differ from the Governor's estimate of general and special revenues available to the agency, the finance board shall, within 30 days after passage of the budget bill, make any modifications to the plan necessary to ensure that the total financial requirements of the agency for the current fiscal year are met.

NOTE: The purpose of this bill is to effectuate the recommendations of the Governor's Task Force on PEIA recommendation on altering the method of calculation of the 80-20 employer/employee match that is required under current law for calculation of payments for PEIA premiums.

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