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2007 APR -4 PM 5: 41

OFFICE OF THE CLERK OF THE WEST VIRGINIA SENATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 129**

(By SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,  
By REQUEST OF THE EXECUTIVE)

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[Passed March 10, 2007; to take effect July 1, 2007.]

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SECRETARY OF STATE

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AN ACT to amend and reenact §5-16-2, §5-16-5, §5-16-7 and §5-16-25 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-16D-1 and §5-16D-6 of said code; and to amend and reenact §18A-1-1 of said code, all relating to Public Employees Insurance Agency; expanding insurance coverage eligibility to include certain substitute employees; expanding coverage to include certain procedures; clarifying certain eligibility provision; requiring continued insurance coverage for Medicare eligible retired employees; modifying treatment of reserve fund balances; modifying treatment of certain portions of required employer annual payments; modifying certain employer annual required contribution provisions; making technical corrections; and deleting obsolete provisions.

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

That §5-16-2, §5-16-5, §5-16-7 and §5-16-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §5-16D-1 and §5-16D-6 of said code be amended and reenacted; and that §18A-1-1 of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

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

**§5-16-2. Definitions.**

1 The following words and phrases as used in this  
2 article, unless a different meaning is clearly indicated  
3 by the context, have the following meanings:

4 (1) "Agency" means the Public Employees Insurance  
5 Agency created by this article.

6 (2) "Director" means the Director of the Public  
7 Employees Insurance Agency created by this article.

8 (3) "Employee" means any person, including an  
9 elected officer, who works regularly full time in the  
10 service of the State of West Virginia and, for the  
11 purpose of this article only, the term "employee" also  
12 means any person, including an elected officer, who  
13 works regularly full time in the service of a county  
14 board of education; a county, city or town in the state;  
15 any separate corporation or instrumentality established  
16 by one or more counties, cities or towns, as permitted by  
17 law; any corporation or instrumentality supported in  
18 most part by counties, cities or towns; any public  
19 corporation charged by law with the performance of a  
20 governmental function and whose jurisdiction is  
21 coextensive with one or more counties, cities or towns;  
22 any comprehensive community mental health center or  
23 comprehensive mental retardation facility established,  
24 operated or licensed by the Secretary of Health and

25 Human Resources pursuant to section one, article two-a,  
26 chapter twenty-seven of this code and which is  
27 supported in part by state, county or municipal funds;  
28 any person who works regularly full time in the service  
29 of the Higher Education Policy Commission, the West  
30 Virginia Council for Community and Technical College  
31 Education or a governing board, as defined in section  
32 two, article one, chapter eighteen-b of this code; any  
33 person who works regularly full time in the service of a  
34 combined city-county health department created  
35 pursuant to article two, chapter sixteen of this code; and  
36 any person who works as a long term substitute as  
37 defined in section one, article one, chapter eighteen-a of  
38 this code, in the service of a county board of education:  
39 *Provided*, That a long-term substitute who is  
40 continuously employed for at least one hundred thirty-  
41 three instructional days during an instructional term,  
42 and until the end of that instructional term, is eligible  
43 for the benefits provided in this article until the first  
44 day of September following that instructional term:  
45 *Provided, however*, That a long-term substitute  
46 employed fewer than one hundred thirty-three  
47 instructional days during an instructional term is  
48 eligible for the benefits provided in this article only  
49 during such time as he or she is actually employed as a  
50 long term substitute. On and after the first day of  
51 January, one thousand nine hundred ninety-four, and  
52 upon election by a county board of education to allow  
53 elected board members to participate in the Public  
54 Employees Insurance Program pursuant to this article,  
55 any person elected to a county board of education shall  
56 be considered to be an "employee" during the term of  
57 office of the elected member: *Provided further*, That the  
58 elected member shall pay the entire cost of the premium  
59 if he or she elects to be covered under this article. Any  
60 matters of doubt as to who is an employee within the  
61 meaning of this article shall be decided by the director.

62 On or after the first day of July, one thousand nine  
63 hundred ninety-seven, a person shall be considered an  
64 "employee" if that person meets the following criteria:

65 (i) Participates in a job-sharing arrangement as  
66 defined in section one, article one, chapter eighteen-a of  
67 this code;

68 (ii) Has been designated, in writing, by all other  
69 participants in that job-sharing arrangement as the  
70 "employee" for purposes of this section; and

71 (iii) Works at least one third of the time required for  
72 a full-time employee.

73 (4) "Employer" means the State of West Virginia, its  
74 boards, agencies, commissions, departments,  
75 institutions or spending units; a county board of  
76 education; a county, city or town in the state; any  
77 separate corporation or instrumentality established by  
78 one or more counties, cities or towns, as permitted by  
79 law; any corporation or instrumentality supported in  
80 most part by counties, cities or towns; any public  
81 corporation charged by law with the performance of a  
82 governmental function and whose jurisdiction is  
83 coextensive with one or more counties, cities or towns;  
84 any comprehensive community mental health center or  
85 comprehensive mental retardation facility established,  
86 operated or licensed by the Secretary of Health and  
87 Human Resources pursuant to section one, article two-a,  
88 chapter twenty-seven of this code and which is  
89 supported in part by state, county or municipal funds;  
90 and a combined city-county health department created  
91 pursuant to article two, chapter sixteen of this code.  
92 Any matters of doubt as to who is an "employer" within  
93 the meaning of this article shall be decided by the  
94 director. The term "employer" does not include within  
95 its meaning the National Guard.

96 (5) "Finance board" means the Public Employees  
97 Insurance Agency finance board created by this article.

98 (6) "Person" means any individual, company,  
99 association, organization, corporation or other legal  
100 entity, including, but not limited to, hospital, medical or  
101 dental service corporations; health maintenance  
102 organizations or similar organization providing prepaid  
103 health benefits; or individuals entitled to benefits under  
104 the provisions of this article.

105 (7) "Plan", unless the context indicates otherwise,  
106 means the medical indemnity plan, the managed care  
107 plan option or the group life insurance plan offered by

108 the agency.

109 (8) "Retired employee" means an employee of the state  
110 who retired after the twenty-ninth day of April, one  
111 thousand nine hundred seventy-one, and an employee of  
112 the University of West Virginia Board of Trustees or the  
113 board of directors of the state college system or a county  
114 board of education who retires on or after the twenty-  
115 first day of April, one thousand nine hundred seventy-  
116 two, and all additional eligible employees who retire on  
117 or after the effective date of this article, meet the  
118 minimum eligibility requirements for their respective  
119 state retirement system and whose last employer  
120 immediately prior to retirement under the state  
121 retirement system is a participating employer: *Provided*,  
122 That for the purposes of this article, the employees who  
123 are not covered by a state retirement system but who  
124 are covered by a state-approved or a state-contracted  
125 retirement system shall, in the case of education  
126 employees, meet the minimum eligibility requirements  
127 of the State Teachers Retirement System and in all  
128 other cases, meet the minimum eligibility requirements  
129 of the Public Employees Retirement System.

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

11 (b) The finance board shall retain the services of an  
12 impartial, professional actuary, with demonstrated  
13 experience in analysis of large group health insurance  
14 plans, to estimate the total financial requirements of the  
15 Public Employees Insurance Agency for each fiscal year  
16 and to review and render written professional opinions

17 as to financial plans proposed by the finance board.  
18 The actuary shall also assist in the development of  
19 alternative financing options and perform any other  
20 services requested by the finance board or the director.  
21 All reasonable fees and expenses for actuarial services  
22 shall be paid by the Public Employees Insurance  
23 Agency. Any financial plan or modifications to a  
24 financial plan approved or proposed by the finance  
25 board pursuant to this section shall be submitted to and  
26 reviewed by the actuary and may not be finally  
27 approved and submitted to the Governor and to the  
28 Legislature without the actuary's written professional  
29 opinion that the plan may be reasonably expected to  
30 generate sufficient revenues to meet all estimated  
31 program and administrative costs of the agency,  
32 including incurred but unreported claims, for the fiscal  
33 year for which the plan is proposed. The actuary's  
34 opinion on the financial plan for each fiscal year shall  
35 allow for no more than thirty days of accounts payable  
36 to be carried over into the next fiscal year. The  
37 actuary's opinion for any fiscal year shall not include a  
38 requirement for establishment of a reserve fund.

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

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

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

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

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

50 The financial plans may provide for different levels of  
51 costs based on the insureds' ability to pay. The finance  
52 board may establish different levels of costs to retired  
53 employees based upon length of employment with a  
54 participating employer, ability to pay or other relevant  
55 factors. The financial plans may also include optional

56 alternative benefit plans with alternative types and  
57 levels of cost. The finance board may develop policies  
58 which encourage the use of West Virginia health care  
59 providers.

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

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

71 (2) The finance board shall prepare a proposed  
72 financial plan designed to generate revenues sufficient  
73 to meet all estimated program and administrative costs  
74 of the Public Employees Insurance Agency for the fiscal  
75 year. The proposed financial plan shall allow for no  
76 more than thirty days of accounts payable to be carried  
77 over into the next fiscal year. Before final adoption of  
78 the proposed financial plan, the finance board shall  
79 request the actuary to review the plan and to render a  
80 written professional opinion stating whether the plan  
81 will generate sufficient revenues to meet all estimated  
82 program and administrative costs of the Public  
83 Employees Insurance Agency for the fiscal year. The  
84 actuary's report shall explain the basis of its opinion. If  
85 the actuary concludes that the proposed financial plan  
86 will not generate sufficient revenues to meet all  
87 anticipated costs, then the finance board shall make  
88 necessary modifications to the proposed plan to ensure  
89 that all actuarially determined financial requirements  
90 of the agency will be met.

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



96 (4) Any financial plan shall be designed to allow thirty  
97 days or less of accounts payable to be carried over into  
98 the next fiscal year. For each fiscal year, the Governor  
99 shall provide his or her estimate of total revenues to the  
100 finance board no later than the fifteenth day of October  
101 of the preceding fiscal year: *Provided*, That, for the  
102 prospective financial plans required by this section, the  
103 Governor shall estimate the revenues available for each  
104 fiscal year of the plans based on the estimated  
105 percentage of growth in general fund revenues. The  
106 finance board shall submit its final, approved financial  
107 plan, after obtaining the necessary actuary's opinion  
108 and conducting one or more public hearings in each  
109 congressional district, to the Governor and to the  
110 Legislature no later than the first day of January  
111 preceding the fiscal year. The financial plan for a fiscal  
112 year becomes effective and shall be implemented by the  
113 director on the first day of July of the fiscal year. In  
114 addition to each final, approved financial plan required  
115 under this section, the finance board shall also  
116 simultaneously submit financial statements based on  
117 generally accepted accounting practices (GAAP) and the  
118 final, approved plan restated on an accrual basis of  
119 accounting, which shall include allowances for incurred  
120 but not reported claims: *Provided, however*, That the  
121 financial statements and the accrual-based financial  
122 plan restatement shall not affect the approved financial  
123 plan.

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

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

139 (g) The prospective financial plans shall be based on  
140 the estimated revenues submitted in accordance with  
141 subdivision (4), subsection (d) of this section and shall  
142 include an average of the projected cost-sharing  
143 percentages of premiums and an average of the  
144 projected deductibles and copays for the various  
145 programs. Beginning in the plan year which commences  
146 on the first day of July, two thousand two, and in each  
147 plan year thereafter, until and including the plan year  
148 which commences on the first day of July, two thousand  
149 six, the prospective plans shall include incremental  
150 adjustments toward the ultimate level required in this  
151 subsection, in the aggregate cost-sharing percentages of  
152 premium between employers and employees, including  
153 the amounts of any subsidization of retired employee  
154 benefits. Effective in the plan year commencing on the  
155 first day of July, two thousand six, and in each plan  
156 year thereafter, the aggregate premium cost-sharing  
157 percentages between employers and employees,  
158 including the amounts of any subsidization of retired  
159 employee benefits, shall be at a level of eighty percent  
160 for the employer and twenty percent for employees,  
161 except for the employers provided in subsection (d),  
162 section eighteen of this article whose premium  
163 cost-sharing percentages shall be governed by that  
164 subsection. After the submission of the initial  
165 prospective plan, the board may not increase costs to  
166 the participating employers or change the average of the  
167 premiums, deductibles and copays for employees, except  
168 in the event of a true emergency as provided in this  
169 section: *Provided*, That if the board invokes the  
170 emergency provisions, the cost shall be borne between  
171 the employers and employees in proportion to the  
172 cost-sharing ratio for that plan year: *Provided, however*,  
173 That for purposes of this section, "emergency" means  
174 that the most recent projections demonstrate that plan  
175 expenses will exceed plan revenues by more than one  
176 percent in any plan year: *Provided further*, That the  
177 aggregate premium cost-sharing percentages between  
178 employers and employees, including the amounts of any  
179 subsidization of retired employee benefits, may be  
180 offset, in part, by a legislative appropriation for that  
181 purpose.

182 (h) The finance board shall meet on at least a

183 quarterly basis to review implementation of its current  
184 financial plan in light of the actual experience of the  
185 Public Employees Insurance Agency. The board shall  
186 review actual costs incurred, any revised cost estimates  
187 provided by the actuary, expenditures and any other  
188 factors affecting the fiscal stability of the plan and may  
189 make any additional modifications to the plan necessary  
190 to ensure that the total financial requirements of the  
191 agency for the current fiscal year are met. The finance  
192 board may not increase the types and levels of cost to  
193 employees during its quarterly review except in the  
194 event of a true emergency.

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

**§5-16-7. Authorization to establish group hospital and  
surgical insurance plan, group major medical  
insurance plan, group prescription drug plan  
and group life and accidental death insurance  
plan; rules for administration of plans;  
mandated benefits; what plans may provide;  
optional plans; separate rating for claims  
experience purposes.**

1 (a) The agency shall establish a group hospital and  
2 surgical insurance plan or plans, a group prescription  
3 drug insurance plan or plans, a group major medical  
4 insurance plan or plans and a group life and accidental  
5 death insurance plan or plans for those employees  
6 herein made eligible and establish and promulgate rules  
7 for the administration of these plans, subject to the  
8 limitations contained in this article. Those plans shall  
9 include:

10 (1) Coverages and benefits for X-ray and laboratory  
11 services in connection with mammograms when  
12 medically appropriate and consistent with current  
13 guidelines from the United States Preventive Services  
14 Task Force; pap smears, either conventional or liquid-

15 based cytology, whichever is medically appropriate and  
16 consistent with the current guidelines from either the  
17 United States Preventive Services Task Force or The  
18 American College of Obstetricians and Gynecologists;  
19 and a test for the human papilloma virus (HPV) when  
20 medically appropriate and consistent with current  
21 guidelines from either the United States Preventive  
22 Services Task Force or The American College of  
23 Obstetricians and Gynecologists, when performed for  
24 cancer screening or diagnostic services on a woman age  
25 eighteen or over;

26 (2) Annual checkups for prostate cancer in men age  
27 fifty and over;

28 (3) Annual screening for kidney disease as determined  
29 to be medically necessary by a physician using any  
30 combination of blood pressure testing, urine albumin or  
31 urine protein testing and serum creatinine testing as  
32 recommended by the National Kidney Foundation;

33 (4) For plans that include maternity benefits, coverage  
34 for inpatient care in a duly licensed health care facility  
35 for a mother and her newly born infant for the length of  
36 time which the attending physician considers medically  
37 necessary for the mother or her newly born child:  
38 *Provided*, That a plan may not deny payment for a  
39 mother or her newborn child prior to forty-eight hours  
40 following a vaginal delivery, or prior to ninety-six hours  
41 following a caesarean section delivery, if the attending  
42 physician considers discharge medically inappropriate;

43 (5) For plans which provide coverages for  
44 post-delivery care to a mother and her newly born child  
45 in the home, coverage for inpatient care following  
46 childbirth as provided in subdivision (4) of this  
47 subsection if inpatient care is determined to be  
48 medically necessary by the attending physician. Those  
49 plans may also include, among other things, medicines,  
50 medical equipment, prosthetic appliances, and any  
51 other inpatient and outpatient services and expenses  
52 considered appropriate and desirable by the agency;  
53 and

54 (6) Coverage for treatment of serious mental illness.

55 (A) The coverage does not include custodial care,  
56 residential care or schooling. For purposes of this  
57 section, "serious mental illness" means an illness  
58 included in the American psychiatric association's  
59 diagnostic and statistical manual of mental disorders, as  
60 periodically revised, under the diagnostic categories or  
61 subclassifications of: (i) Schizophrenia and other  
62 psychotic disorders; (ii) bipolar disorders; (iii)  
63 depressive disorders; (iv) substance-related disorders  
64 with the exception of caffeine-related disorders and  
65 nicotine-related disorders; (v) anxiety disorders; and (vi)  
66 anorexia and bulimia. With regard to any covered  
67 individual who has not yet attained the age of nineteen  
68 years, "serious mental illness" also includes attention  
69 deficit hyperactivity disorder, separation anxiety  
70 disorder and conduct disorder.

71 (B) Notwithstanding any other provision in this  
72 section to the contrary, in the event that the agency can  
73 demonstrate actuarially that its total anticipated costs  
74 for the treatment of mental illness for any plan will  
75 exceed or have exceeded two percent of the total costs  
76 for such plan in any experience period, then the agency  
77 may apply whatever cost containment measures may be  
78 necessary, including, but not limited to, limitations on  
79 inpatient and outpatient benefits, to maintain costs  
80 below two percent of the total costs for the plan.

81 (C) The agency shall not discriminate between  
82 medical-surgical benefits and mental health benefits in  
83 the administration of its plan. With regard to both  
84 medical-surgical and mental health benefits, it may  
85 make determinations of medical necessity and  
86 appropriateness, and it may use recognized health care  
87 quality and cost management tools, including, but not  
88 limited to, limitations on inpatient and outpatient  
89 benefits, utilization review, implementation of cost  
90 containment measures, preauthorization for certain  
91 treatments, setting coverage levels, setting maximum  
92 number of visits within certain time periods, using  
93 capitated benefit arrangements, using fee-for-service  
94 arrangements, using third-party administrators, using  
95 provider networks and using patient cost sharing in the  
96 form of copayments, deductibles and coinsurance.

97 (b) The agency shall make available to each eligible  
98 employee, at full cost to the employee, the opportunity  
99 to purchase optional group life and accidental death  
100 insurance as established under the rules of the agency.  
101 In addition, each employee is entitled to have his or her  
102 spouse and dependents, as defined by the rules of the  
103 agency, included in the optional coverage, at full cost to  
104 the employee, for each eligible dependent; and with full  
105 authorization to the agency to make the optional  
106 coverage available and provide an opportunity of  
107 purchase to each employee.

108 (c) The finance board may cause to be separately rated  
109 for claims experience purposes:

110 (1) All employees of the State of West Virginia;

111 (2) All teaching and professional employees of state  
112 public institutions of higher education and county  
113 boards of education;

114 (3) All nonteaching employees of the Higher  
115 Education Policy Commission, West Virginia Council  
116 for Community and Technical College Education and  
117 county boards of education; or

118 (4) Any other categorization which would ensure the  
119 stability of the overall program.

120 (d) The agency shall maintain the medical and  
121 prescription drug coverage for Medicare-eligible  
122 retirees by providing coverage through one of the  
123 existing plans or by enrolling the Medicare-eligible  
124 retired employees into a Medicare-specific plan,  
125 including, but not limited to, the Medicare/Advantage  
126 Prescription Drug Plan. In the event that a Medicare-  
127 specific plan would no longer be available or  
128 advantageous for the agency and the retirees, the  
129 retirees shall remain eligible for coverage through the  
130 agency.

**§5-16-25. Reserve fund.**

1 Upon the effective date of this section, the finance  
2 board shall establish and maintain a reserve fund for

3 the purposes of offsetting unanticipated claim losses in  
4 any fiscal year. Beginning with the fiscal year two  
5 thousand two plan and for each succeeding fiscal year  
6 plan, the finance board shall transfer ten percent of the  
7 projected total plan costs for that year into the reserve  
8 fund, which is to be certified by the actuary and  
9 included in the final, approved financial plan submitted  
10 to the Governor and Legislature in accordance with the  
11 provisions of this article. Any moneys saved in a plan  
12 year shall be transferred into the reserve fund. At the  
13 close of any fiscal year in which the balance in the  
14 reserve fund exceeds the recommended reserve amount  
15 by fifteen percent, the executive director shall transfer  
16 that amount to the West Virginia Retiree Health Benefit  
17 Trust Fund created in section two, article sixteen-d of  
18 this chapter.

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

**§5-16D-1. Definitions.**

1 As used in this article, the term:

2 (a) "Actuarial accrued liability" means that portion,  
3 as determined by a particular actuarial cost method, of  
4 the actuarial present value of fund obligations and  
5 administrative expenses which is not provided by future  
6 normal costs.

7 (b) "Actuarial cost method" means a method for  
8 determining the actuarial present value of the  
9 obligations and administrative expenses of the fund and  
10 for developing an actuarially equivalent allocation of  
11 the value to time periods, usually in the form of a  
12 normal cost and an actuarial accrued liability.  
13 Acceptable actuarial methods are the aggregate,  
14 attained age, entry age, frozen attained age, frozen entry  
15 age and projected unit credit methods.

16 (c) "Actuarially sound" means that calculated  
17 contributions to the fund are sufficient to pay the full  
18 actuarial cost of the fund. The full actuarial cost  
19 includes both the normal cost of providing for fund  
20 obligations as they accrue in the future and the cost of  
21 amortizing the unfunded actuarial accrued liability over

22 a period of no more than thirty years.

23 (d) "Actuarial present value of total projected  
24 benefits" means the present value, at the valuation date,  
25 of the cost to finance benefits payable in the future,  
26 discounted to reflect the expected effects of the time  
27 value of money and the probability of payment.

28 (e) "Actuarial assumptions" means assumptions  
29 regarding the occurrence of future events affecting the  
30 fund such as mortality, withdrawal, disability and  
31 retirement; changes in compensation and offered post-  
32 employment benefits; rates of investment earnings and  
33 other asset appreciation or depreciation; procedures  
34 used to determine the actuarial value of assets; and  
35 other relevant items.

36 (f) "Actuarial valuation" means the determination, as  
37 of a valuation date, of the normal cost, actuarial  
38 accrued liability, actuarial value of assets and related  
39 actuarial present values for the fund.

40 (g) "Administrative expenses" means all expenses  
41 incurred in the operation of the fund, including all  
42 investment expenses.

43 (h) "Annual required contribution" means the amount  
44 employers must contribute in a given year to fully fund  
45 the trust, as determined by the actuarial valuation in  
46 accordance with requirements of generally accepted  
47 accounting principles. This amount shall represent a  
48 level of funding that if paid on an ongoing basis is  
49 projected to cover the normal cost each year and  
50 amortize any unfunded actuarial liabilities of the plan  
51 over a period not to exceed thirty years.

52 (i) "Board" means the Public Employees Insurance  
53 Agency Finance Board created in section four, article  
54 sixteen of this chapter.

55 (j) "Cost sharing multiple employer plan" means a  
56 single plan with pooling (cost-sharing) arrangements for  
57 the participating employers. All risk, rewards, and  
58 costs, including benefit costs, are shared and not  
59 attributed individually to the employers. A single



60 actuarial valuation covers all plan members and the  
61 same contribution rate applies for each employer.

62 (k) "Covered health care expenses" means all actual  
63 health care expenses paid by the health plan on behalf  
64 of fund beneficiaries. Actual health care expenses  
65 include claims payments to providers and premiums  
66 paid to intermediary entities and health care providers  
67 by the health plan.

68 (l) "Employer" means any employer as defined by  
69 section two, article sixteen of this chapter which has or  
70 will have retired employees in any Public Employees  
71 Insurance Agency health plan.

72 (m) "Employer annual required contribution" means  
73 the portion of the annual required contribution which  
74 is the responsibility of that particular employer.

75 (n) "Fund" means the West Virginia Retiree Health  
76 Benefit Trust Fund established under this article.

77 (o) "Fund beneficiaries" means all persons receiving  
78 post-employment health care benefits through the  
79 health plan.

80 (p) "Health plan" means the health insurance plan or  
81 plans established under article sixteen of this chapter.

82 (q) "Minimum annual employer payment" means the  
83 annual amount paid by employers which, when  
84 combined with the retirees' contributions on their  
85 premiums that year, provide sufficient funds to cover all  
86 projected retiree covered health care expenses and  
87 related administrative costs for that year. The finance  
88 board shall develop the minimum annual employer  
89 payment as part of its financial plan each year as  
90 addressed in section five, article sixteen of this chapter.

91 (r) "Normal cost" means that portion of the actuarial  
92 present value of the fund obligations and expenses  
93 which is allocated to a valuation year by the actuarial  
94 cost method used for the fund.

95 (s) "Obligations" means the administrative expenses

96 of the fund and the cost of covered health care expenses  
97 incurred on behalf of fund beneficiaries.

98 (t) "Other post-employment benefits" or "retiree post-  
99 employment health care benefits" means those benefits  
100 as addressed by governmental accounting standards  
101 board statement no. 43 or any subsequent  
102 governmental standards board statement that may be  
103 applicable to the fund.

104 (u) "Plan for other post-employment benefits" means  
105 the fiscal funding plan for retiree post-employment  
106 health care benefits as it relates to governmental  
107 accounting standards board statement no. 43 or any  
108 subsequent governmental accounting standards board  
109 statements that may be applicable to the fund.

110 (v) "Retiree" means retired employee as defined by  
111 section two, article sixteen of this chapter.

112 (w) "Retirement system" or "system" means the West  
113 Virginia Consolidated Public Retirement Board created  
114 and established by article ten of this chapter and  
115 includes any retirement systems or funds administered  
116 or overseen by the Consolidated Public Retirement  
117 Board.

118 (x) "Unfunded actuarial accrued liability" means for  
119 any actuarial valuation the excess of the actuarial  
120 accrued liability over the actuarial value of the assets of  
121 the fund under an actuarial cost method used by the  
122 fund for funding purposes.

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

1 (a) The board shall annually set the total annual  
2 required contribution sufficient to maintain the fund in  
3 an actuarially sound manner in accordance with  
4 generally accepted accounting principles.

5 (b) The board shall annually allocate to the respective  
6 employers the employer's portion of the annual required  
7 contribution, which allocated amount is the "employer  
8 annual required contribution".

9 (c) The board may apportion the annual required  
10 contribution into various components. These  
11 components may include the amortized unfunded  
12 actuarial accrued liability, the total normal cost, the  
13 employer annual required contribution and the lesser  
14 included minimum annual employer payment. In the  
15 board's annual apportionment of the annual required  
16 contribution, any amounts of the minimum annual  
17 employer payment apportioned to reduce the amortized  
18 unfunded actuarial accrued liability shall not be treated  
19 as premium by the board in the finance plan but, rather,  
20 shall be treated as contributions to prefund other post-  
21 employment benefits.

22 (d) Employers shall make annual contributions to the  
23 fund in, at least, the amount of the minimum annual  
24 employer payment rates established by the board.

25 (e) The Public Employees Insurance Agency shall bill  
26 each employer for the employer annual required  
27 contribution and the included minimum annual  
28 employer payment. The Public Employees Insurance  
29 Agency shall annually collect the minimum annual  
30 employer payment. The Public Employees Insurance  
31 Agency shall, in addition to the minimum annual  
32 employer payment, collect any amounts the employer  
33 elects to pay toward the employer annual required  
34 contribution. Any employer annual required  
35 contribution amount not satisfied by the respective  
36 employer shall remain the liability of that employer  
37 until fully paid.

## **CHAPTER 18A. SCHOOL PERSONNEL.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§18A-1-1. Definitions.**

1 The definitions contained in section one, article one,  
2 chapter eighteen of this code apply to this chapter. In  
3 addition, the following words used in this chapter and  
4 in any proceedings pursuant to this chapter shall, unless  
5 the context clearly indicates a different meaning, be  
6 construed as follows:

7 (a) "School personnel" means all personnel employed  
8 by a county board whether employed on a regular full-  
9 time basis, an hourly basis or otherwise. School  
10 personnel shall be comprised of two categories:  
11 Professional personnel and service personnel;

12 (b) "Professional personnel" means persons who meet  
13 the certification requirements of the state, licensing  
14 requirements of the state or both and includes the  
15 professional educator and other professional employees;

16 (c) "Professional educator" has the same meaning as  
17 "teacher" as defined in section one, article one, chapter  
18 eighteen of this code. Professional educators shall be  
19 classified as:

20 (1) "Classroom teacher" means a professional  
21 educator who has direct instructional or counseling  
22 relationship with pupils, spending the majority of his or  
23 her time in this capacity;

24 (2) "Principal" means a professional educator who, as  
25 agent of the county board, has responsibility for the  
26 supervision, management and control of a school or  
27 schools within the guidelines established by the county  
28 board. The major area of the responsibility shall be the  
29 general supervision of all the schools and all school  
30 activities involving pupils, teachers and other school  
31 personnel;

32 (3) "Supervisor" means a professional educator who,  
33 whether by this or other appropriate title, is responsible  
34 for working primarily in the field with professional and  
35 other personnel in instructional and other school  
36 improvement; and

37 (4) "Central office administrator" means a  
38 superintendent, associate superintendent, assistant  
39 superintendent and other professional educators,  
40 whether by these or other appropriate titles, who are  
41 charged with the administering and supervising of the  
42 whole or some assigned part of the total program of the  
43 countywide school system;

44 (d) "Other professional employee" means that person

45 from another profession who is properly licensed and is  
46 employed to serve the public schools and includes a  
47 registered professional nurse, licensed by the West  
48 Virginia Board of Examiners for Registered Professional  
49 Nurses and employed by a county board, who has  
50 completed either a two-year (sixty-four semester hours)  
51 or a three-year (ninety-six semester hours) nursing  
52 program;

53 (e) "Service personnel" means those who serve the  
54 school or schools as a whole, in a nonprofessional  
55 capacity, including such areas as secretarial, custodial,  
56 maintenance, transportation, school lunch and as aides;

57 (f) "Principals Academy" or "academy" means the  
58 academy created pursuant to section two-b, article  
59 three-a of this chapter;

60 (g) "Center for Professional Development" means the  
61 center created pursuant to section one, article three-a of  
62 this chapter;

63 (h) "Job-sharing arrangement" means a formal,  
64 written agreement voluntarily entered into by a county  
65 board with two or more of its employees who wish to  
66 divide between them the duties and responsibilities of  
67 one authorized full-time position;

68 (i) "Prospective employable professional personnel"  
69 means certified professional educators who:

70 (1) Have been recruited on a reserve list of a county  
71 board;

72 (2) Have been recruited at a job fair or as a result of  
73 contact made at a job fair;

74 (3) Have not obtained regular employee status through  
75 the job posting process provided for in section seven-a,  
76 article four of this chapter; and

77 (4) Have obtained a baccalaureate degree from an  
78 accredited institution of higher education within the  
79 past year;

80 (j) "Dangerous student" means a pupil who is  
81 substantially likely to cause serious bodily injury to  
82 himself, herself or another individual within that pupil's  
83 educational environment, which may include any  
84 alternative education environment, as evidenced by a  
85 pattern or series of violent behavior exhibited by the  
86 pupil and documented in writing by the school, with the  
87 documentation provided to the student and parent or  
88 guardian at the time of any offense; and

89 (k) "Alternative education" means an authorized  
90 departure from the regular school program designed to  
91 provide educational and social development for  
92 students whose disruptive behavior places them at risk  
93 of not succeeding in the traditional school structures  
94 and in adult life without positive interventions.

95 (l) "Long-term substitute" means a substitute  
96 employee who fills a vacant position:

97 That the county superintendent expects to extend for  
98 at least ninety consecutive days and is either:

99 (A) Listed in the job posting as a long-term substitute  
100 position of over ninety days; or

101 (B) Listed in a job posting as a regular, full-time  
102 position and:

103 (i) Is not filled by a regular, full-time employee; and

104 (ii) Is filled by a substitute employee.

105 For the purposes of section two, article sixteen,  
106 chapter five of this code, long-term substitute does not  
107 include a retired employee hired to fill the vacant  
108 position.

Enr. Com. Sub. for S. B. No. 129] 22

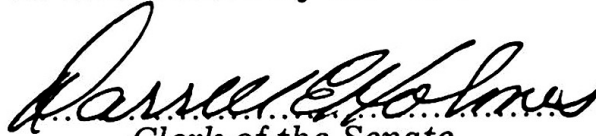
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

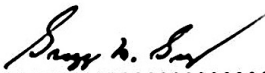
  
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Chairman Senate Committee

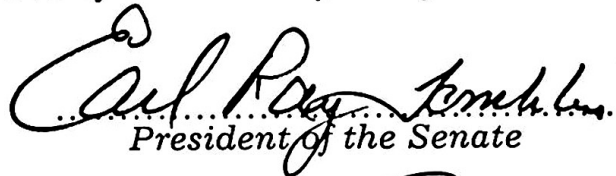
  
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Chairman House Committee

Originated in the Senate.

To take effect July 1st 2007.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved ..... this  
the 4<sup>th</sup> Day of April ....., 2007.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 02 2007

Time 3:35pm