

H. B. 2137

(By Delegates Boggs, Perry, Moore, Miley,  
Kominar, Azinger and Evans)

[Introduced January 12, 2011; referred to the  
Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended, relating to requiring the Public Employees Insurance Agency and its contractors, under certain circumstances, to advertise that they are seeking bids prior to accepting bids for contracts.

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

That §5-16-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.**

1           (a) The director is hereby given exclusive authorization to  
2 execute ~~such contract or~~ contracts as are necessary to carry out  
3 the provisions of this article and to provide the plan or plans of  
4 group hospital and surgical insurance coverage, group major medical  
5 insurance coverage, group prescription drug insurance coverage and  
6 group life and accidental death insurance coverage selected in  
7 accordance with the provisions of this article, ~~such~~ the contract  
8 or contracts to be executed with one or more agencies,  
9 corporations, insurance companies or service organizations licensed  
10 to sell group hospital and surgical insurance, group major medical  
11 insurance, group prescription drug insurance and group life and  
12 accidental death insurance in this state.

13           (b) The group hospital or surgical insurance coverage and  
14 group major medical insurance coverage ~~herein~~ in this  
15 article shall include coverages and benefits for X ray and  
16 laboratory services in connection with mammogram and pap smears  
17 when performed for cancer screening or diagnostic services and  
18 annual checkups for prostate cancer in men age fifty and over.  
19 ~~Such~~ The benefits shall include, but are not ~~be~~ limited to, the  
20 following:

21           (1) Mammograms when medically appropriate and consistent with  
22 the current guidelines from the United States Preventive Services  
23 Task Force;

24           (2) A pap smear, either conventional or liquid-based cytology,

1 whichever is medically appropriate and consistent with the current  
2 guidelines from the United States Preventive Services Task Force or  
3 The American College of Obstetricians and Gynecologists, for women  
4 age eighteen and over;

5 (3) A test for the human papilloma virus (HPV) for women age  
6 eighteen or over, when medically appropriate and consistent with  
7 the current guidelines from either the United States Preventive  
8 Services Task Force or The American College of Obstetricians and  
9 Gynecologists for women age eighteen and over;

10 (4) A checkup for prostate cancer annually for men age fifty  
11 or over; and

12 (5) Annual screening for kidney disease as determined to be  
13 medically necessary by a physician using any combination of blood  
14 pressure testing, urine albumin or urine protein testing and serum  
15 creatinine testing as recommended by the National Kidney  
16 Foundation.

17 (6) Coverage for general anesthesia for dental procedures and  
18 associated outpatient hospital or ambulatory facility charges  
19 provided by appropriately licensed healthcare individuals in  
20 conjunction with dental care if the covered person is:

21 (A) Seven years of age or younger or is developmentally  
22 disabled and is either an individual for whom a successful result  
23 cannot be expected from dental care provided under local anesthesia  
24 because of a physical, intellectual or other medically compromising

1 condition of the individual and for whom a superior result can be  
2 expected from dental care provided under general anesthesia; or

3 (B) A child who is twelve years of age or younger with  
4 documented phobias, or with documented mental illness, and with  
5 dental needs of such magnitude that treatment should not be delayed  
6 or deferred and for whom lack of treatment can be expected to  
7 result in infection, loss of teeth or other increased oral or  
8 dental morbidity and for whom a successful result cannot be  
9 expected from dental care provided under local anesthesia because  
10 of such condition and for whom a superior result can be expected  
11 from dental care provided under general anesthesia.

12 (c) The group life and accidental death insurance ~~herein~~  
13 provided in this article shall be in the amount of \$10,000 for  
14 every employee. The amount of the group life and accidental death  
15 insurance to which an employee would otherwise be entitled shall be  
16 reduced to \$5,000 upon ~~such~~ the employee attaining age sixty-five.

17 (d) All of the insurance coverage to be provided ~~for~~ under  
18 this article may be included in one or more similar contracts  
19 issued by the same or different carriers.

20 (e) (1) The provisions of article three, chapter five-a of  
21 this code, relating to the Division of Purchasing of the Department  
22 of Finance and Administration, ~~shall~~ do not apply to any contracts  
23 for any insurance coverage or professional services authorized to  
24 be executed under the provisions of this article.

1       (2) Before entering into any contract for any insurance  
2 coverage, as authorized in this article, the director shall:

3       (A) Invite competent bids from all qualified and licensed  
4 insurance companies or carriers, who may wish to offer plans for  
5 the insurance coverage desired; and

6       (B) Advertise that the director is seeking bids using  
7 advertising media such as the purchasing bulletin, newspapers,  
8 trade journals, or any other media targeted at those in West  
9 Virginia who may want to submit a bid and give those interested at  
10 least thirty days to submit a bid or notice of interest.

11       ~~Provided, That~~ (3) After the thirty-day period is complete,  
12 the director shall negotiate and contract directly with health care  
13 providers and other entities, organizations and vendors in order to  
14 secure competitive premiums, prices and other financial advantages.

15       (4) The director shall deal directly with insurers or health  
16 care providers and other entities, organizations and vendors in  
17 presenting specifications and receiving quotations for bid  
18 purposes.

19       (5) No commission or finder's fee, or any combination thereof,  
20 ~~shall~~ may be paid to any individual or agent; but this ~~shall~~ does  
21 not preclude an underwriting insurance company or companies, at  
22 their own expense, from appointing a licensed resident agent,  
23 within this state, to service the companies' contracts awarded  
24 under the provisions of this article. Commissions reasonably

1 related to actual service rendered for the agent or agents may be  
2 paid by the underwriting company or companies: *Provided, however,*  
3 That in no event ~~shall~~ may payment be made to any agent or agents  
4 when no actual services are rendered or performed.

5       (6) The director shall award the contract or contracts on a  
6 competitive basis. In awarding the contract or contracts the  
7 director shall take into account the experience of the offering  
8 agency, corporation, insurance company or service organization in  
9 the group hospital and surgical insurance field, group major  
10 medical insurance field, group prescription drug field and group  
11 life and accidental death insurance field, and its facilities for  
12 the handling of claims. In evaluating these factors, the director  
13 may employ the services of impartial, professional insurance  
14 analysts or actuaries or both. Any contract executed by the  
15 director with a selected carrier shall be a contract to govern all  
16 eligible employees subject to the provisions of this article.

17       (7) Nothing contained in this article ~~shall prohibit~~ prohibits  
18 any insurance carrier from soliciting employees covered ~~hereunder~~  
19 under this article to purchase additional hospital and surgical,  
20 major medical or life and accidental death insurance coverage.

21       (f) The director may authorize the carrier with whom a primary  
22 contract is executed to reinsure portions of the contract with  
23 other carriers which elect to be a reinsurer and who are legally  
24 qualified to enter into a reinsurance agreement under the laws of

1 this state.

2 (g) Each employee who is covered under any contract or  
3 contracts shall receive a statement of benefits to which the  
4 employee, his or her spouse and his or her dependents are entitled  
5 under the contract, setting forth the information as to whom the  
6 benefits are payable, to whom claims shall be submitted and a  
7 summary of the provisions of the contract or contracts as they  
8 affect the employee, his or her spouse and his or her dependents.

9 (h) The director may at the end of any contract period  
10 discontinue any contract or contracts it has executed with any  
11 carrier and replace the same with a contract or contracts with any  
12 other carrier or carriers meeting the requirements of this article.

13 (i) The director shall provide by contract or contracts  
14 entered into under the provisions of this article the cost for  
15 coverage of children's immunization services from birth through age  
16 sixteen years to provide immunization against the following  
17 illnesses: Diphtheria, polio, mumps, measles, rubella, tetanus,  
18 hepatitis-b, haemophilus influenzae-b and whooping cough.

19 Additional immunizations may be required by the Commissioner of the  
20 Bureau for Public Health for public health purposes. Any contract  
21 entered into to cover these services shall require that all costs  
22 associated with immunization, including the cost of the vaccine, if  
23 incurred by the health care provider, and all costs of vaccine  
24 administration be exempt from any deductible, per visit charge

1 and/or copayment provisions which may be in force in these policies  
2 or contracts. This section does not require that other health care  
3 services provided at the time of immunization be exempt from any  
4 deductible and/or copayment provisions.

5 (j) Any contract that the director enters under this article  
6 which contains provisions authorizing the person to whom the  
7 contract is awarded to subcontract portions of the contract shall  
8 require the contractor to advertise, prior to awarding a  
9 subcontract, that it is seeking bids using advertising media such  
10 as the Purchasing Bulletin, newspapers, trade journals or any other  
11 media targeted at those in West Virginia who may want to submit a  
12 bid and give those interested at least thirty days to submit a bid  
13 or notice of interest.

NOTE: The purpose of this bill is to require the Public Insurance Agency and its contractors, under certain circumstances, to advertise that they are seeking bids prior to accepting bids on contracts.

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