

1 **H. B. 2177**

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3 (By Delegates Rodighiero, Stowers and Butcher)
4 [Introduced January 12, 2011; referred to the
5 Committee on Government Organization then Finance.]
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**FISCAL
NOTE**

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10 A BILL to amend and reenact §5-16-5 of the Code of West Virginia,
11 1931, as amended, relating to freezing employee premiums at
12 the current level until July 1, 2014.

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

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

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

17 **§5-16-5. Purpose, powers and duties of the finance board; initial**
18 **financial plan; financial plan for following year; and**
19 **annual financial plans.**

20 (a) The purpose of the finance board created by this article
21 is to bring fiscal stability to the Public Employees Insurance
22 Agency through development of annual financial plans and long-range
23 plans designed to meet the agency's estimated total financial

1 requirements, taking into account all revenues projected to be made
2 available to the agency and apportioning necessary costs equitably
3 among participating employers, employees and retired employees and
4 providers of health care services.

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

1 each fiscal year shall allow for no more than thirty days of
2 accounts payable to be carried over into the next fiscal year. The
3 actuary's opinion for any fiscal year shall not include a
4 requirement for establishment of a reserve fund.

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

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

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

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

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

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

23 In addition, the finance board may allocate a portion of the
24 premium costs charged to participating employers to subsidize the

1 cost of coverage for participating retired employees, on such terms
2 as the finance board determines are equitable and financially
3 responsible.

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

9 (2) The finance board shall prepare a proposed financial plan
10 designed to generate revenues sufficient to meet all estimated
11 program and administrative costs of the Public Employees Insurance
12 Agency for the fiscal year. The proposed financial plan shall
13 allow for no more than thirty days of accounts payable to be
14 carried over into the next fiscal year. Before final adoption of
15 the proposed financial plan, the finance board shall request the
16 actuary to review the plan and to render a written professional
17 opinion stating whether the plan will generate sufficient revenues
18 to meet all estimated program and administrative costs of the
19 Public Employees Insurance Agency for the fiscal year. The
20 actuary's report shall explain the basis of its opinion. If the
21 actuary concludes that the proposed financial plan will not
22 generate sufficient revenues to meet all anticipated costs, then
23 the finance board shall make necessary modifications to the
24 proposed plan to ensure that all actuarially determined financial

1 requirements of the agency will be met.

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

7 (4) Any financial plan shall be designed to allow thirty days
8 or less of accounts payable to be carried over into the next fiscal
9 year. For each fiscal year, the Governor shall provide his or her
10 estimate of total revenues to the finance board no later than
11 October 15 of the preceding fiscal year: *Provided, That, for the*
12 *prospective financial plans required by this section, the Governor*
13 *shall estimate the revenues available for each fiscal year of the*
14 *plans based on the estimated percentage of growth in general fund*
15 *revenues. The finance board shall submit its final, approved*
16 *financial plan, after obtaining the necessary actuary's opinion and*
17 *conducting one or more public hearings in each congressional*
18 *district, to the Governor and to the Legislature no later than*
19 *January 1, preceding the fiscal year. The financial plan for a*
20 *fiscal year becomes effective and shall be implemented by the*
21 *director on July 1 of the fiscal year. In addition to each final,*
22 *approved financial plan required under this section, the finance*
23 *board shall also simultaneously submit financial statements based*
24 *on generally accepted accounting practices (GAAP) and the final,*

1 approved plan restated on an accrual basis of accounting, which
2 shall include allowances for incurred but not reported claims:
3 *Provided, however,* That the financial statements and the accrual-
4 based financial plan restatement shall not affect the approved
5 financial plan.

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

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

18 (g) The prospective financial plans shall be based on the
19 estimated revenues submitted in accordance with subdivision (4),
20 subsection (d) of this section and shall include an average of the
21 projected cost-sharing percentages of premiums and an average of
22 the projected deductibles and copays for the various programs.
23 ~~Beginning in the plan year which commences on July 1, 2002, and in~~
24 ~~each plan year thereafter, until and including the plan year which~~

1 ~~commences on July 1, 2006, the prospective plans shall include~~
2 ~~incremental adjustments toward the ultimate level required in this~~
3 ~~subsection, in the aggregate cost-sharing percentages of premium~~
4 ~~between employers and employees, including the amounts of any~~
5 ~~subsidization of retired employee benefits.~~ Effective in the plan
6 year commencing on July 1, 2006, and in each plan year thereafter,
7 the aggregate premium cost-sharing percentages between employers
8 and employees, including the amounts of any subsidization of
9 retired employee benefits, shall be at a level of eighty percent
10 for the employer and twenty percent for employees, except for the
11 employers provided in subsection (d), section eighteen of this
12 article whose premium cost-sharing percentages shall be governed by
13 that subsection. For the plan year commencing on July 1, 2011,
14 and in each plan year thereafter until the plan year commencing
15 July 1, 2014, the premiums for employees shall remain at the
16 current level. After the submission of the initial prospective
17 plan, the board may not increase costs to the participating
18 employers or change the average of the premiums, deductibles and
19 copays for employees, except in the event of a true emergency as
20 provided in this section: *Provided*, That if the board invokes the
21 emergency provisions, the cost shall be borne between the employers
22 and employees in proportion to the cost-sharing ratio for that plan
23 year: *Provided, however*, That for purposes of this section,
24 "emergency" means that the most recent projections demonstrate that

1 plan expenses will exceed plan revenues by more than one percent in
2 any plan year: *Provided further,* That the aggregate premium cost-
3 sharing percentages between employers and employees, including the
4 amounts of any subsidization of retired employee benefits, may be
5 offset, in part, by a legislative appropriation for that purpose.

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

17 (i) For any fiscal year in which legislative appropriations
18 differ from the Governor's estimate of general and special revenues
19 available to the agency, the finance board shall, within thirty
20 days after passage of the budget bill, make any modifications to
21 the plan necessary to ensure that the total financial requirements
22 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 the present law, and underscoring indicates new language that would be added.