

1 **H. B. 2189**

2
3 (By Delegate Rodighiero)

4 [Introduced January 12, 2011; referred to the
5 Committee on Banking and Insurance then Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend and reenact §5-16-5 of the Code of West Virginia,
11 1931, as amended, relating to the Finance Board pursuant to
12 the West Virginia Public Employees Insurance Act not to
13 increase the types and levels of cost to applicable current
14 and retired employees during the 2011 and 2012 plan years.

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

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

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

19 **§5-16-5. Purpose, powers and duties of the Finance Board; initial**
20 **financial plan; financial plan for following year; and**
21 **annual financial plans.**

22 (a) The purpose of the Finance Board created by this article
23 is to bring fiscal stability to the Public Employees Insurance

1 Agency through development of annual financial plans and long-range
2 plans designed to meet the agency's estimated total financial
3 requirements, taking into account all revenues projected to be made
4 available to the agency and apportioning necessary costs equitably
5 among participating employers, employees and retired employees and
6 providers of health care services.

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

1 incurred but unreported claims, for the fiscal year for which the
2 plan is proposed. The actuary's opinion on the financial plan for
3 each fiscal year shall allow for no more than thirty days of
4 accounts payable to be carried over into the next fiscal year. The
5 actuary's opinion for any fiscal year shall not include a
6 requirement for establishment of a reserve fund.

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

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

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

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

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

17 The financial plans may provide for different levels of costs
18 based on the insureds' ability to pay. The Finance Board may
19 establish different levels of costs to retired employees based upon
20 length of employment with a participating employer, ability to pay
21 or other relevant factors. The financial plans may also include
22 optional alternative benefit plans with alternative types and
23 levels of cost. The Finance Board may develop policies which

1 encourage the use of West Virginia health care providers.

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

7 (d) (1) The Finance Board shall prepare an annual financial
8 plan for each fiscal year during which the Finance Board remains in
9 existence. The Finance Board chairman shall request the actuary to
10 estimate the total financial requirements of the Public Employees
11 Insurance Agency for the fiscal year.

12 (2) The Finance Board shall prepare a proposed financial plan
13 designed to generate revenues sufficient to meet all estimated
14 program and administrative costs of the Public Employees Insurance
15 Agency for the fiscal year. The proposed financial plan shall
16 allow for no more than thirty days of accounts payable to be
17 carried over into the next fiscal year. Before final adoption of
18 the proposed financial plan, the Finance Board shall request the
19 actuary to review the plan and to render a written professional
20 opinion stating whether the plan will generate sufficient revenues
21 to meet all estimated program and administrative costs of the
22 Public Employees Insurance Agency for the fiscal year. The
23 actuary's report shall explain the basis of its opinion. If the

1 actuary concludes that the proposed financial plan will not
2 generate sufficient revenues to meet all anticipated costs, then
3 the Finance Board shall make necessary modifications to the
4 proposed plan to ensure that all actuarially determined financial
5 requirements of the agency will be met.

6 (3) Upon obtaining the actuary's opinion, the Finance Board
7 shall conduct one or more public hearings in each congressional
8 district to receive public comment on the proposed financial plan,
9 shall review the comments and shall finalize and approve the
10 financial plan.

11 (4) Any financial plan shall be designed to allow thirty days
12 or less of accounts payable to be carried over into the next fiscal
13 year. For each fiscal year, the Governor shall provide his or her
14 estimate of total revenues to the Finance Board no later than the
15 fifteenth day of October of the preceding fiscal year. ~~Provided,~~
16 ~~That,~~ However, for the prospective financial plans required by this
17 section, the Governor shall estimate the revenues available for
18 each fiscal year of the plans based on the estimated percentage of
19 growth in general fund revenues. The Finance Board shall submit
20 its final, approved financial plan, after obtaining the necessary
21 actuary's opinion and conducting one or more public hearings in
22 each congressional district, to the Governor and to the Legislature
23 no later than January 1 preceding the fiscal year. The financial

1 plan for a fiscal year becomes effective and shall be implemented
2 by the director on July 1 of the fiscal year. In addition to each
3 final, approved financial plan required under this section, the
4 Finance Board shall also simultaneously submit financial statements
5 based on generally accepted accounting practices (GAAP) and the
6 final, approved plan restated on an accrual basis of accounting,
7 which shall include allowances for incurred but not reported
8 claims. ~~Provided, however, That~~ However, the financial statements
9 and the accrual-based financial plan restatement shall not affect
10 the approved financial plan.

11 (e) ~~The provisions of~~ Chapter twenty-nine-a of this code shall
12 not apply to the preparation, approval and implementation of the
13 financial plans required by this section.

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

23 (g) The prospective financial plans shall be based on the

1 estimated revenues submitted in accordance with subdivision (4),
2 subsection (d) of this section and shall include an average of the
3 projected cost-sharing percentages of premiums and an average of
4 the projected deductibles and copays for the various programs.
5 Beginning in the plan year which commences on July 1, 2002, and in
6 each plan year thereafter, until and including the plan year which
7 commences on July 1, 2006, the prospective plans shall include
8 incremental adjustments toward the ultimate level required in this
9 subsection, in the aggregate cost-sharing percentages of premium
10 between employers and employees, including the amounts of any
11 subsidization of retired employee benefits. Effective in the plan
12 year commencing July 1, 2006, and in each plan year thereafter, the
13 aggregate premium cost-sharing percentages between employers and
14 employees, including the amounts of any subsidization of retired
15 employee benefits, shall be at a level of eighty percent for the
16 employer and twenty percent for employees, except for the employers
17 provided in subsection (d), section eighteen of this article whose
18 premium cost-sharing percentages shall be governed by that
19 subsection. After the submission of the initial prospective plan,
20 the board may not increase costs to the participating employers or
21 change the average of the premiums, deductibles and copays for
22 employees, except in the event of a true emergency as provided in
23 this section. ~~Provided, That~~ If the board invokes the emergency

1 provisions, the cost shall be borne between the employers and
2 employees in proportion to the cost-sharing ratio for that plan
3 year. ~~Provided, however, That~~ However, for purposes of this
4 section, "emergency" means that the most recent projections
5 demonstrate that plan expenses will exceed plan revenues by more
6 than one percent in any plan year. ~~Provided further, That~~ Also,
7 the aggregate premium cost-sharing percentages between employers
8 and employees, including the amounts of any subsidization of
9 retired employee benefits, may be offset, in part, by a legislative
10 appropriation for that purpose.

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

22 (i) For any fiscal year in which legislative appropriations
23 differ from the Governor's estimate of general and special revenues

1 available to the agency, the Finance Board shall, within thirty
2 days after passage of the budget bill, make any modifications to
3 the plan necessary to ensure that the total financial requirements
4 of the agency for the current fiscal year are met.

5 (j) Notwithstanding any other provision to the contrary within
6 this article, the Finance Board may not increase the types and
7 levels of cost to current and retired employees during the 2011 and
8 2012 plan years.

NOTE: This bill shall prohibit the Finance Board pursuant to the West Virginia Public Employees Insurance Act to increase the types and levels of cost to applicable current and retired employees during the 2011 and 2012 plan years.

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