

1 **ENROLLED**

2 **Senate Bill No. 294**

3 (By Senators Cole (Mr. President) and Kessler,

4 By Request of the Executive)

5 _____
6 [Passed March 3, 2015; in effect ninety days from passage.]
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10 AN ACT to repeal §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended; to
11 amend and reenact §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code; to amend
12 and reenact §15-5-28 of said code; to amend and reenact §18A-3-2c of said code; and to
13 amend and reenact §33-16D-16 of said code, all relating to eliminating unnecessary, inactive
14 or redundant councils, committees and boards; terminating the Council for Community and
15 Economic Development and transferring powers and duties to the Executive Director of the
16 West Virginia Development Office; terminating the Statewide Intrastate Mutual Aid
17 Committee and making technical corrections to the code to reference a state of preparedness;
18 terminating the Principals Standards Advisory Council; and terminating the West Virginia
19 Health Insurance Plan Board.

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

21 That §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended, be repealed; that

1 §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code be amended and reenacted; that
2 §15-5-28 of said code be amended and reenacted; that §18A-3-2c of said code be amended and
3 reenacted; and that §33-16D-16 of said code be amended and reenacted, all to read as follows:

4 **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

5 **ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.**

6 **§5B-2-2. Appointment and compensation of the Executive Director of the West Virginia
7 Development Office.**

8 (a) The Governor shall appoint the Executive Director of the West Virginia Development
9 Office who is qualified for the position by reason of his or her extensive education and experience
10 in the field of professional economic development. The executive director serves at the will and
11 pleasure of the Governor. The executive director shall have overall management responsibility and
12 administrative control and supervision within the West Virginia Development Office. It is the
13 intention of the Legislature that the executive director provide professional and technical expertise
14 in the field of professional economic and tourism development.. Subject to the provisions of the
15 contract provided in section four of this article, the executive director may hire and fire economic
16 development representatives employed pursuant to the provisions of section five of this article.

17 (b) The Executive Director of the West Virginia Development Office may promulgate rules
18 to carry out the purposes and programs of the West Virginia Development Office to include
19 generally the programs available and the procedure and eligibility of applications relating to
20 assistance under the programs. These rules are not subject to the provisions of chapter twenty-nine-a
21 of this code, but shall be filed with the Secretary of State. The executive director may adopt any of

1 the rules previously promulgated by the council for community and economic development.

2 **§5B-2-3. Powers and duties of the executive director.**

3 The executive director shall enhance economic growth and development through the
4 development of a comprehensive economic development strategy for West Virginia.
5 “Comprehensive economic development strategy” means a plan that outlines strategies and activities
6 designed to continue, diversify or expand the economic base of the state as a whole; create jobs;
7 develop a highly skilled workforce; facilitate business access to capital, including venture capital;
8 advertise and market the resources offered by the state with respect to the needs of business and
9 industry; facilitate cooperation among local, regional and private economic development enterprises;
10 improve infrastructure on a state, regional and community level; improve the business climate
11 generally; and leverage funding from sources other than the state, including federal and private
12 sources.

13 **§5B-2-4. Public-private partnerships.**

14 The West Virginia Development Office is authorized to enter into contractual or joint venture
15 agreements with a nonprofit corporation organized pursuant to the corporate laws of the state,
16 organized to permit qualification pursuant to section 501(c) of the Internal Revenue Code and for
17 purposes of the economic development of West Virginia, and funded from sources other than the
18 state. The contract shall include provisions relating to the employment of economic development
19 representatives assigned to the West Virginia Development Office to be paid a base salary by the
20 state and performance-based economic incentives from private funds of the nonprofit corporation.
21 Provisions relating to hiring practices with respect to economic development representatives, job

1 descriptions, accountability, public-private liaison and performance standards may be the subject of
2 contract negotiations. The contract shall include provision for continuing education and certification
3 in the field of economic or industrial development for persons employed as economic development
4 representatives. Agreements providing for the payment of performance-based incentives to the
5 Executive Director of the West Virginia Development Office are authorized. Agreements providing
6 for the payment of travel and expenses to the Executive Director of the West Virginia Development
7 Office or to economic development representatives from private funds by the nonprofit corporation
8 are authorized. The prohibitions of subdivisions (b) and (d), section five, article two, chapter six-b
9 of this code are not applicable to the receipt by economic development representatives or by the
10 executive director of performance-based incentives and other payments made by the nonprofit
11 corporation and specifically authorized pursuant to this section.

12 From time to time the executive director may enter into joint ventures wherein the West
13 Virginia Development Office and the nonprofit corporation share in the development and funding
14 of economic development programs.

15 All contracts and joint venture agreements must be approved by the executive director.
16 Contracts entered into pursuant to this section for longer than one fiscal year shall contain, in
17 substance, a provision that the contract shall be considered cancelled without further obligation on
18 the part of the state if the State Legislature or, where appropriate, the federal government, shall fail
19 to appropriate sufficient funds therefor or shall act to impair the contract or cause it to be cancelled.

20 **§5B-2-5. Economic development representatives.**

21 (a) The executive director may employ economic development representatives to be paid a

1 base salary within legislative appropriations to the West Virginia Development Office, subject to
2 applicable contract provisions pursuant to section four of this article. Economic development
3 representatives may receive performance-based incentives and expenses paid from private funds
4 from a nonprofit corporation contracting with the West Virginia Development Office pursuant to the
5 provisions of section four of this article. The executive director shall establish job descriptions and
6 responsibilities of economic development representatives, subject to the provisions of any contract
7 with a nonprofit corporation entered into pursuant to section four of this article.

8 (b) Notwithstanding any provision of this code to the contrary, economic development
9 representatives employed within the West Virginia Development Office are not subject to the
10 procedures and protections provided by articles six and six-a, chapter twenty-nine of this code. Any
11 employee of the West Virginia Development Office on the effective date of this article who applies
12 for employment as an economic development representative is not entitled to the protections of
13 article six, chapter twenty-nine with respect to hiring procedures and qualifications; and upon
14 accepting employment as an economic development representative, the employee relinquishes the
15 protections provided for in article two, chapter six-c and article six, chapter twenty-nine of this code.

16 **§5B-2-6. Transition; savings provision.**

17 All programs, orders, determinations, rules, permits, grants, contracts, certificates, bonds,
18 authorizations and privileges which have been issued, made, granted or allowed to become effective
19 pursuant to any prior enactments of this article or by the Governor, the Governor's Office of
20 Community and Industrial Development or its director, or by a court of competent jurisdiction, and
21 which are in effect on February 1, 1992, shall continue in effect according to their terms until

1 modified, terminated, superseded, set aside or revoked by the Governor or the Executive Director
2 of the West Virginia Development Office pursuant to this article, by a court of competent jurisdiction
3 or by operation of law.

4 **CHAPTER 15. PUBLIC SAFETY.**

5 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY**
6 **MANAGEMENT.**

7 **§15-5-28. Statewide mutual aid system.**

8 (a) The Legislature hereby finds that emergencies transcend political jurisdictional boundaries
9 and that intergovernmental coordination is essential for the protection of lives and property and for
10 the best use of available assets, both public and private. The purpose of this section is to create a
11 system of intrastate mutual aid between participating political subdivisions in the state. The system
12 shall provide for mutual assistance among the participating political subdivisions in the prevention
13 of, response to and recovery from any disaster that results in a formal state of emergency or state of
14 preparedness in a participating political subdivision, subject to that participating political
15 subdivision's criteria for declaration. The system shall provide for mutual cooperation among the
16 participating subdivisions in conducting disaster-related exercises, testing or other training activities
17 outside actual declared emergency periods. This section provides no immunity, rights or privileges
18 for any individual responding to a state of emergency or state of preparedness that is not requested
19 or authorized to respond by a participating political subdivision. Participating political subdivisions
20 will be ensured, to the fullest extent possible, eligibility for state and federal disaster funding.

21

1 (b) Upon the enactment of this legislation, all political subdivisions within the state are
2 members of the statewide mutual aid system: *Provided*, That a political subdivision within the state
3 may elect not to participate or to withdraw from the system upon the enactment of an appropriate
4 resolution by its governing body declaring that it elects not to participate in the statewide mutual aid
5 system. A copy of any such resolution shall be provided to the Division of Homeland Security and
6 Emergency Management.

7 (c) This section does not preclude participating political subdivisions from entering into
8 supplementary agreements with another political subdivision and does not affect any other agreement
9 to which a political subdivision may currently be a party to, or decide to be a party to.

10 (d) “Emergency responder”, as used in this article, shall mean anyone with special skills,
11 qualifications, training, knowledge and experience in the public or private sectors that would be
12 beneficial to a participating political subdivision in response to a locally declared emergency as
13 defined in any applicable law or ordinance or authorized drill or exercises; and who is requested and
14 authorized to respond. Under this definition, an emergency responder may be required to possess
15 a license, certificate, permit or other official recognition for his or her expertise in a particular field
16 or area of knowledge. An emergency responder could include, but is in no way limited to, the
17 following: Law-enforcement officers, firefighters, emergency medical services personnel, physicians,
18 nurses, other public health personnel, emergency management personnel, public works personnel,
19 local emergency debris removal teams, those persons with specialized equipment operations skills
20 or training or any other skills needed to provide aid in a declared emergency.

21 (e) It shall be the responsibility of each participating political subdivision with jurisdiction

1 over and responsibility for emergency management within that certain subdivision to do all of the
2 following:

3 (1) Identify potential hazards that could affect the participant using an identification system
4 common to all participating jurisdictions.

5 (2) Conduct joint planning, intelligence sharing and threat assessment development with
6 contiguous participating political subdivisions and conduct joint training at least biennially.

7 (3) Identify and inventory the current services, equipment, supplies, personnel and other
8 resources related to planning, prevention, mitigation, response and recovery activities of the
9 participating political subdivision.

10 (4) Adopt and implement the National Incident Management System approved by the State
11 of West Virginia.

12 (f) A participating political subdivision may request assistance of other participating political
13 subdivisions in preventing, mitigating, responding to and recovering from disasters that result in
14 locally declared emergencies or in concert with authorized drills or exercises as allowed under this
15 section. Requests for assistance shall be made to the Division of Homeland Security and Emergency
16 Management through the designated county emergency management director by the chief executive
17 officer of a participating political subdivision, or his or her designee, for response. Requests may
18 be verbal or in writing. Verbal requests will be followed up with a written request as soon as is
19 practical or such number of days as the state, in its discretion, may dictate.

20 (g) The obligation of a participating political subdivision to provide assistance in the
21 prevention of, response to and recovery from a locally declared emergency or in authorized drills or

1 exercises is subject to the following conditions:

2 (1) A participating political subdivision requesting assistance must have either declared a
3 state of emergency in the manner outlined in this section or authorized drills and exercises;

4 (2) A responding participating political subdivision may withhold resources to the extent
5 necessary to provide reasonable protection and services for its own jurisdiction;

6 (3) Emergency response personnel of a responding participating political subdivision shall
7 continue under the command and control of their responding jurisdiction to include medical
8 protocols, standard operating procedures and other protocols, but shall be under the operational
9 control of the appropriate officials within the National Incident Management System of the
10 participating political subdivision receiving the assistance; and

11 (4) Assets and equipment of a responding participating political subdivision shall continue
12 under the control of the responding jurisdiction, but shall be under the operational control of the
13 appropriate officials within the National Incident Management System of the participating political
14 subdivision receiving the assistance.

15 (h) If a person or entity holds a license, certificate or other permit issued by a participating
16 political subdivision or the state evidencing qualification in a professional, mechanical or other skill
17 and the assistance of that person or entity is requested by a participating political subdivision, the
18 person or entity shall be deemed to be licensed, certified or permitted in the political subdivision
19 requesting assistance for the duration of the declared emergency or authorized drills or exercises and
20 subject to any limitations and conditions the chief executive of the participating political subdivision
21 receiving the assistance may prescribe by executive order or otherwise.

1 (i) (1) Any requesting political subdivision shall reimburse the participating political
2 subdivision rendering aid under this system provided the request for aid is authorized by the Division
3 of Homeland Security and Emergency Management. A participating political subdivision providing
4 assistance may determine to donate assets of any kind to a receiving participating political
5 subdivision.

6 (2) Should a dispute arise between parties to the system regarding reimbursement, involved
7 parties will make every effort to resolve the dispute within thirty days of written notice of the dispute
8 by the party asserting noncompliance. In the event that the dispute is not resolved within ninety days
9 of the notice of the claim, either party may request the dispute be solved through arbitration. Any
10 arbitration under this provision shall be conducted under the commercial arbitration rules of the
11 American Arbitration Association.

12 (j) Personnel of a participating political subdivision responding to or rendering
13 assistance for a request who sustain injury or death in the course of, and arising out of, their
14 employment are entitled to all applicable benefits normally available to personnel while performing
15 their duties for their employer. Responders shall receive any additional state and federal benefits that
16 may be available to them for line-of-duty deaths.

17 (k) All activities performed under this section are deemed hereby to be governmental
18 functions. For the purposes of liability, all persons responding under the operational control of the
19 requesting political subdivision are deemed to be employees of the requesting participating political
20 subdivision.

21 (l) Whenever the law-enforcement officials of any political subdivision are rendering outside

1 aid pursuant their lawful authority, and with the approval of the Director of the West Virginia
2 Division of Homeland Security and Emergency Management, and under the authority of a state of
3 emergency or state of preparedness as officially proclaimed by the Governor, such law-enforcement
4 officials shall have the same authority, powers, duties, rights, privileges and immunities as if they
5 were performing their law-enforcement duties in the political subdivisions in which they are
6 normally employed. The authority vested in the law-enforcement official, in accordance with this
7 section, shall vest upon reporting in person to the Emergency Management Agency official in charge
8 and on duty at the county or city of destination assignment. The law-enforcement official shall act
9 under the authority, supervision and control of the highest ranking law-enforcement official within
10 the assigned outside jurisdiction. Law enforcement and powers of arrest authority will not attach to
11 the law-enforcement official while in transit from his or her jurisdiction of origin en route to his or
12 her assigned jurisdiction under intrastate mutual aid assistance.

13 **CHAPTER 18A. SCHOOL PERSONNEL.**

14 **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL**
15 **DEVELOPMENT.**

16 **§18A-3-2c. Training through the principals academy.**

17 (a) *Principal training and professional development required.* -- After the effective date of
18 this section and subject to the provisions of subsection (c) of this section, every principal shall
19 complete training and professional development through the principals academy as provided in
20 subsection (b) of this section.

21 (b) *Principal training and professional development through the academy.* -- The academy

1 and the persons required to complete training and professional development through the academy
2 shall adhere to the following guidelines:

3 (1) All persons assigned as a principal for the first time in a West Virginia school after July
4 1, 2002, shall complete specialized training and professional development for newly appointed
5 principals through the academy within the first twelve months following assignment;

6 (2) All principals of schools which have been designated as seriously impaired, in accordance
7 with section five, article two-e, chapter eighteen of this code, shall complete specialized training and
8 professional development through the academy specifically designed to assist the principal to
9 improve school performance commencing as soon as practicable following receipt of the
10 designation;

11 (3) All principals who are subject to an improvement plan, in accordance with section twelve,
12 article two of this chapter, shall complete specialized training and professional development through
13 the academy specifically designed for principals subject to an improvement plan. The specialized
14 training and professional development shall be completed within twelve months from the date that
15 the principal is first subject to the improvement plan;

16 (4) All principals who transfer to a school with a significantly different grade configuration
17 shall complete specialized training and professional development for principals in schools with the
18 grade configuration to which they transferred through the academy within the first twelve months
19 following transfer; and

20 (5) All persons serving as school principals shall complete training and professional
21 development through the academy designed to build the qualities, proficiencies and skills required

1 of all principals as determined by the state board.

2 (c) *Academy and requirements to complete training and professional development subject*
3 *to funding.* -- The requirement that principals complete training and professional development
4 through the academy shall be subject to the availability of funds for the principals academy from
5 legislative appropriation and from other sources. If these funds are insufficient to provide for the
6 total cost of the training and professional development required by subsection (b) of this section, then
7 the academy shall provide training and professional development for the persons described in
8 subdivisions (1) through (5), inclusive, subsection (b) of this section according to the priority in
9 which the subdivisions appear in said subsection. If such funds are insufficient to provide for the
10 training and professional development of all the persons described in one or more of subdivisions
11 (1) through (5), inclusive, subsection (b) of this section, the academy is authorized to determine
12 which persons described within the subdivision or subdivisions shall be admitted and which shall
13 not be admitted: *Provided*, That the principals academy shall make every effort to ensure that all
14 principals receive training and professional development through the academy at least once every
15 six years effective July1, 2002, and thereafter: *Provided, however*, That nothing in this section shall
16 be construed to require any specific level of funding by the Legislature.

17 (d) *Establishment of standards.* -- On or before October 1, 1996, the state board shall approve
18 and promulgate rules regarding the minimum qualities, proficiencies and skills that will be required
19 of principals after January1, 1997. The state board shall promulgate and may, from time to time,
20 amend such rules. The rules promulgated by the state board shall address at least the following:

21 (1) Staff relations, including, but not limited to, the development and use of skills necessary

1 to make a positive use of faculty senates, manage faculty and staff with courtesy and mutual respect,
2 coach and motivate employees, and build consensus as a means of management;

3 (2) School community leadership qualities, including, but not limited to, the ability to
4 organize and leverage community initiative, communicate effectively, work effectively with local
5 school improvement councils, manage change, resolve conflict and reflect the highest personal
6 values;

7 (3) Educational proficiencies, including, but not limited to, knowledge of curriculum,
8 instructional techniques, student learning styles, student assessment criteria, school personnel
9 performance, evaluation skills and family issues; and

10 (4) Administrative skills, including, but not limited to, organizational, fiscal, public policy
11 and total quality management skills and techniques.

12 (e) *Waivers*. -- Any person desiring to be relieved of the requirements of all or any part of this
13 section may apply in writing to the state board for a waiver. Upon a showing of reasonable cause
14 why relief should be granted, the state board may grant a waiver, upon such terms and conditions as
15 the state board shall determine proper, as to all or any part of this section.

16 (f) *Failure to comply*. -- Any person who fails or refuses to complete training and
17 professional development through the academy, as required by the provisions of this section, and
18 who fails to obtain a waiver, as described in subsection(e) of this section, shall be ineligible to be
19 employed as, or serve in the capacity of, a principal.

20 (g) *Tracking of requirement*. -- On or before January 1, 1997, the state board shall establish
21 a system to track the progress of each person required to complete training through the academy and

1 shall regularly advise such persons of their progress.

2 (h) *Payment of reasonable and necessary expenses and stipends.* -- The center for
3 professional development shall reimburse persons attending the academy for reasonable and
4 necessary expenses. A person may not be required to complete training and professional
5 development through the principals academy before September 15, and after June 1, of the school
6 year. The center for professional development shall utilize alternative methods of instructional
7 delivery and scheduling, including electronic delivery, as considered appropriate to minimize the
8 amount of time principals completing training and professional development through the academy
9 are required to be away from their school duties. Nothing in this section shall be construed to require
10 any specific level of funding by the Legislature.

11 **CHAPTER 33. INSURANCE.**

12 **ARTICLE 16D. MARKETING AND RATE PRACTICES.**

13 **§33-16D-16. Authorization of uninsured small group health benefit plans.**

14 (a) Upon filing with and approval by the commissioner, any carrier licensed pursuant to this
15 chapter which accesses a health care provider network to deliver services may offer a health benefit
16 plan and rates associated with the plan to a small employer subject to the conditions of this section
17 and subject to the provisions of this article. The health benefit plan is subject to the following
18 conditions:

19 (1) The health benefit plan may be offered by the carrier only to small employers which have
20 not had a health benefit plan covering their employees for at least six consecutive months before the
21 effective date of this section. After the passage of six months from the effective date of this section,

1 the health benefit plan under this section may be offered by carriers only to small employers which
2 have not had a health benefit plan covering their employees for twelve consecutive months;

3 (2) If a small employer covered by a health benefit plan offered pursuant to this section no
4 longer meets the definition of a small employer as a result of an increase in eligible employees, that
5 employer shall remain covered by the health benefit plan until the next annual renewal date;

6 (3) The small employer shall pay at least fifty percent of its employees' premium amount for
7 individual employee coverage;

8 (4) The commissioner shall promulgate emergency rules under the provisions of article three,
9 chapter twenty-nine-a of this code on or before September 1, 2004, to place additional restrictions
10 upon the eligibility requirements for health benefit plans authorized by this section in order to
11 prevent manipulation of eligibility criteria by small employers and otherwise implement the
12 provisions of this section;

13 (5) Carriers must offer the health benefit plans issued pursuant to this section through one
14 of their existing networks of health care providers;

15 (A) The West Virginia Health Care Authority shall, on or before May 1, 2004, and each year
16 thereafter, by regular mail, provide a written notice to all known in-state health care providers that:

17 (i) Informs the health care provider regarding the provisions of this section; and

18 (ii) Notifies the health care provider that if the health care provider does not give written
19 refusal to the West Virginia Health Care Authority within thirty days from receipt of the notice or
20 the health care provider has not previously filed a written notice of refusal to participate, the health
21 care provider must participate with and accept the products and provider reimbursements authorized

1 pursuant to this section;

2 (B) The carrier's network of health care providers, as well as any health care provider which
3 provides health care goods or services to beneficiaries of any departments or divisions of the state,
4 as identified in article twenty-nine-d, chapter sixteen of this code, shall accept the health care
5 provider reimbursement rates set pursuant to this section unless the health care provider gives written
6 refusal to the West Virginia Health Care Authority between May 1 and June 1 that the provider will
7 not participate in this program for the next calendar year. Notwithstanding any provision of this code
8 to the contrary, health care providers may not be mandated to participate in this program except
9 under the opt-out provisions of subdivision (5), subsection (a) of this section and therefore the health
10 care provider shall annually have the ability to file with the West Virginia Health Care Authority
11 written notice that the health care provider will not participate with products issued pursuant to this
12 section. Once a health care provider has filed a notice of refusal with the West Virginia Health Care
13 Authority, the notice shall remain effective until rescinded by the provider and the provider shall not
14 be required to renew the notice each year;

15 (C) The West Virginia Health Care Authority is responsible for receiving the responses, if
16 any, from the health care providers that have elected not to participate and for providing a list to the
17 commissioner of those health care providers that have elected not to participate;

18 (D) Those health care providers that do not file a notice of refusal shall be considered to have
19 accepted participation in this program and to accept Public Employees Insurance Agency health care
20 provider reimbursement rates for their services as set by this section;

21 (E) Health care provider reimbursement rates used by the carrier for a health benefit plan

1 offered pursuant to this section shall have no effect on provider rates for other products offered by
2 the carrier and most-favored-nation clauses do not apply to the rates;

3 (6) With respect to the health benefit plans authorized by this section, the carrier shall
4 reimburse network health care providers at the same health care provider reimbursement rates in
5 effect for the managed care and health maintenance organization plans offered by the West Virginia
6 Public Employees Insurance Agency. Beginning in the year 2004, and in each year thereafter, the
7 health care provider reimbursement rates set under this section may not be lowered from the level
8 of the rates in effect on July 1 of that year for the managed care and health maintenance plans offered
9 by the Public Employees Insurance Agency. While it is the intent of this paragraph to govern rates
10 for plans offered pursuant to this section for annual periods, this subdivision in no way prevents the
11 Public Employees Insurance Agency from making provider reimbursement rate adjustments to
12 Public Employees Insurance Agency plans during the course of each year. If there is a dispute
13 regarding the determination of appropriate rates pursuant to this section, the Director of the Public
14 Employees Insurance Agency shall, in his or her sole discretion, specify the appropriate rate to be
15 applied;

16 (A) The health care provider reimbursement rates as authorized by this section shall be
17 accepted by the health care provider as payment in full for services or products provided to a person
18 covered by a product authorized by this section;

19 (B) Except for the health care provider rates authorized under this section, a carrier's payment
20 methodology, including copayments and deductibles and other conditions of coverage, remains
21 unaffected by this section;

1 (C) The provisions of this section do not require the Public Employees Insurance Agency to
2 give carriers access to the purchasing networks of the Public Employees Insurance Agency. The
3 Public Employees Insurance Agency may enter into agreements with carriers offering health benefit
4 plans under this section to permit the carrier, at its election, to participate in drug purchasing
5 arrangements pursuant to article sixteen-c, chapter five of this code, including the multistate drug
6 purchasing program. This paragraph provides authorization of the agreements pursuant to section
7 four of said article;

8 (7) Carriers may not underwrite products authorized by this section more strictly than other
9 small group policies governed by this article;

10 (8) With respect to health benefit plans authorized by this section, a carrier shall have a
11 minimum anticipated loss ratio of seventy-seven percent to be eligible to make a rate increase request
12 after the first year of providing a health benefit plan under this section;

13 (9) Products authorized under this section are exempt from the premium taxes assessed under
14 sections fourteen and fourteen-a, article three of this chapter;

15 (10) A carrier may elect to nonrenew any health benefit plan to an eligible employer if, at any
16 time, the carrier determines, by applying the same network criteria which it applies to other small
17 employer health benefit plans, that it no longer has an adequate network of health care providers
18 accessible for that eligible small employer. If the carrier makes a determination that an adequate
19 network does not exist, the carrier has no obligation to obtain additional health care providers to
20 establish an adequate network;

21 (11) Upon thirty days' advance notice to the commissioner, a carrier may, at any time, elect

1 to nonrenew all health benefit plans issued pursuant to this section. If a carrier nonrenews all its
2 business issued pursuant to this section for any reason other than the adequacy of the provider
3 network, the carrier may not offer this health benefit plan to any eligible small employer for a period
4 of at least two years after the last eligible small employer is nonrenewed; and

5 (12) The Insurance Commissioner may not approve any health benefit plan issued pursuant
6 to this section until it has obtained any necessary federal governmental authorizations or waivers.
7 The Insurance Commissioner shall apply for and obtain all necessary federal authorizations or
8 waivers.

9 (b) Health benefit plans authorized by this section are not intended to violate the prohibition
10 set out in subsection (a), section four of this article.

11 (c) Carriers offering health benefit plans pursuant to this section shall annually or before
12 December 1 of each year report in a form acceptable to the commissioner the number of health
13 benefit plans written by the carrier and the number of individuals covered under the health benefit
14 plans.

15 (d) To the extent that provisions of this section differ from those contained elsewhere in this
16 chapter, the provisions of this section control.