

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 517**

BY SENATORS GAUNCH AND TRUMP

[Introduced February 4, 2016;

Referred to the Committee on Banking and  
Insurance.]

1 A BILL to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended, relating  
 2 to the Public Employees Insurance Agency; clarifying that the plans established and  
 3 administered by the Public Employees Insurance Agency are exempt from regulation by  
 4 the Insurance Commissioner unless specifically stated otherwise; and providing that the  
 5 Public Employees Insurance Agency is not an “insurer” or in the “business of insurance”  
 6 for purposes of the Insurance Commissioner.

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

1 That §5-16-22 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

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

**§5-16-22. Permissive participation; exemptions.**

3 The provisions of this article are not mandatory upon any employee or employer who is  
 4 not an employee of or is not the State of West Virginia, its boards, agencies, commissions,  
 5 departments, institutions or spending units or a county board of education, and nothing contained  
 6 in this article ~~may be construed so as to compel~~ compels any employee or employer to enroll in  
 7 or subscribe to any insurance plan authorized by the provisions of this article.

8 Those employees enrolled in the insurance program authorized under the provisions of  
 9 article two-b, chapter twenty-one-a of this code ~~may~~ are not ~~be~~ required to enroll in or subscribe  
 10 to an insurance plan or plans authorized by the provisions of this article, and the employees of  
 11 any department which has an existing insurance program for its employees to which the  
 12 government of the United States contributes any part or all of the premium or cost of the premium  
 13 may be exempted from the provisions of this article. Any employee or employer exempted under  
 14 the provisions of this paragraph may enroll in any insurance program authorized by the provisions  
 15 of this article at any time, to the same extent as any other qualified employee or employer, but  
 16 employee or employer may not remain enrolled in both programs. ~~The provisions of articles~~  
 17 ~~fourteen, fifteen and sixteen, chapter thirty-three of this code, relating to group life insurance,~~

18 ~~accident and sickness insurance, and group accident and sickness insurance, are not applicable~~  
19 ~~to the provisions of this article whenever the provisions of articles fourteen, fifteen and sixteen,~~  
20 ~~chapter thirty-three of this code are in conflict with or contrary to any provision set forth in this~~  
21 ~~article or to any plan or plans established by the Public Employees Insurance Agency Any plan~~  
22 ~~established or administered by the Public Employees Insurance Agency pursuant to this article is~~  
23 ~~exempt from the provisions of chapter thirty-three of this code, unless explicitly stated.~~  
24 ~~Notwithstanding any provision of this code to the contrary, the Public Employees Insurance~~  
25 ~~Agency is not an “insurer” or engaged in the “business of insurance” as defined in chapter thirty-~~  
26 ~~three of this code.~~

27 Employers, other than the State of West Virginia, its boards, agencies, commissions,  
28 departments, institutions, spending units or a county board of education are exempt from  
29 participating in the insurance program provided for by the provisions of this article unless  
30 participation by the employer has been approved by a majority vote of the employer's governing  
31 body. It is the duty of the clerk or secretary of the governing body of an employer who by majority  
32 vote becomes a participant in the insurance program to notify the director not later than ten days  
33 after the vote.

34 Any employer, whether the employer participates in the Public Employees Insurance  
35 Agency insurance program as a group or not, which has retired employees, their dependents or  
36 surviving dependents of deceased retired employees who participate in the Public Employees  
37 Insurance Agency insurance program as authorized by this article, shall pay to the agency the  
38 same contribution toward the cost of coverage for its retired employees, their dependents or  
39 surviving dependents of deceased retired employees as the State of West Virginia, its boards,  
40 agencies, commissions, departments, institutions, spending units or a county board of education  
41 pay for their retired employees, their dependents and surviving dependents of deceased retired  
42 employees, as determined by the finance board: *Provided*, That after June 30, 1996, an employer  
43 not mandated to participate in the plan is only required to pay a contribution toward the cost of

44 coverage for its retired employees, their dependents or the surviving dependents of deceased  
45 retired employees who elect coverage when the retired employee participated in the plan as an  
46 active employee of the employer for at least five years: *Provided, however,* That those retired  
47 employees of an employer not participating in the plan who retire on or after July 1, 2010, who  
48 have participated in the plan as active employees of the employer for less than five years are  
49 responsible for the entire premium cost for coverage and the Public Employees Insurance Agency  
50 shall bill for and collect the entire premium from the retired employees, unless the employer elects  
51 to pay the employer share of the premium. Each employer is hereby authorized and required to  
52 budget for and make such payments as are required by this section.

NOTE: The purpose of this bill is to clarify that the Public Employees Insurance Agency and any plan it establishes or administers is exempt from Chapter 33, except where those provisions are made expressly applicable.

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