

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4551

BY DELEGATES MCCUSKEY, WESTFALL AND FRICH

BY REQUEST OF THE

PUBLIC EMPLOYEES INSURANCE AGENCY

[Introduced February 16, 2016; referred to Banking
and Insurance then Finance.]

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.

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

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

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

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

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

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