

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2871**

BY DELEGATES WALTERS, NELSON, GEARHEART,

HOUSEHOLDER AND OVERINGTON

[Introduced March 9, 2017; Referred  
to the Committee on Banking and Insurance then  
Finance.]

1 A BILL to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating  
 2 to eliminating the mandated employer versus employee cost share of eighty percent  
 3 employer, twenty percent employee for Public Employee Insurance Agency active  
 4 employee premiums by setting a maximum eighty percent employer share and a minimum  
 5 twenty percent employee share.

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

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

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

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

1 (a) The purpose of the finance board created by this article is to bring fiscal stability to the  
 2 Public Employees Insurance Agency through development of annual financial plans and long-  
 3 range plans designed to meet the agency's estimated total financial requirements, taking into  
 4 account all revenues projected to be made available to the agency and apportioning necessary  
 5 costs equitably among participating employers, employees and retired employees and providers  
 6 of health care services.

7 (b) The finance board shall retain the services of an impartial, professional actuary, with  
 8 demonstrated experience in analysis of large group health insurance plans, to estimate the total  
 9 financial requirements of the Public Employees Insurance Agency for each fiscal year and to  
 10 review and render written professional opinions as to financial plans proposed by the finance  
 11 board. The actuary shall also assist in the development of alternative financing options and  
 12 perform any other services requested by the finance board or the director. All reasonable fees  
 13 and expenses for actuarial services shall be paid by the Public Employees Insurance Agency.  
 14 Any financial plan or modifications to a financial plan approved or proposed by the finance board  
 15 pursuant to this section shall be submitted to and reviewed by the actuary and may not be finally

16 approved and submitted to the Governor and to the Legislature without the actuary's written  
17 professional opinion that the plan may be reasonably expected to generate sufficient revenues to  
18 meet all estimated program and administrative costs of the agency, including incurred but  
19 unreported claims, for the fiscal year for which the plan is proposed. The actuary's opinion on the  
20 financial plan for each fiscal year shall allow for no more than thirty days of accounts payable to  
21 be carried over into the next fiscal year. The actuary's opinion for any fiscal year shall not include  
22 a requirement for establishment of a reserve fund.

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

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

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

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

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

29 The financial plans may provide for different levels of costs based on the insureds' ability  
30 to pay. The finance board may establish different levels of costs to retired employees based upon  
31 length of employment with a participating employer, ability to pay or other relevant factors. The  
32 financial plans may also include optional alternative benefit plans with alternative types and levels  
33 of cost. The finance board may develop policies which encourage the use of West Virginia health  
34 care providers.

35 In addition, the finance board may allocate a portion of the premium costs charged to  
36 participating employers to subsidize the cost of coverage for participating retired employees, on  
37 such terms as the finance board determines are equitable and financially responsible.

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

42           (2) The finance board shall prepare a proposed financial plan designed to generate  
43 revenues sufficient to meet all estimated program and administrative costs of the Public  
44 Employees Insurance Agency for the fiscal year. The proposed financial plan shall allow for no  
45 more than thirty days of accounts payable to be carried over into the next fiscal year. Before final  
46 adoption of the proposed financial plan, the finance board shall request the actuary to review the  
47 plan and to render a written professional opinion stating whether the plan will generate sufficient  
48 revenues to meet all estimated program and administrative costs of the Public Employees  
49 Insurance Agency for the fiscal year. The actuary's report shall explain the basis of its opinion. If  
50 the actuary concludes that the proposed financial plan will not generate sufficient revenues to  
51 meet all anticipated costs, then the finance board shall make necessary modifications to the  
52 proposed plan to ensure that all actuarially determined financial requirements of the agency will  
53 be met.

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

57           (4) Any financial plan shall be designed to allow thirty days or less of accounts payable to  
58 be carried over into the next fiscal year. For each fiscal year, the Governor shall provide his or  
59 her estimate of total revenues to the finance board no later than October 15, of the preceding  
60 fiscal year: *Provided*, That, for the prospective financial plans required by this section, the  
61 Governor shall estimate the revenues available for each fiscal year of the plans based on the  
62 estimated percentage of growth in general fund revenues. The finance board shall submit its final,  
63 approved financial plan, after obtaining the necessary actuary's opinion and conducting one or  
64 more public hearings in each congressional district, to the Governor and to the Legislature no  
65 later than January 1, preceding the fiscal year. The financial plan for a fiscal year becomes  
66 effective and shall be implemented by the director on July 1, of the fiscal year. In addition to each  
67 final, approved financial plan required under this section, the finance board shall also

68 simultaneously submit financial statements based on generally accepted accounting practices  
69 (GAAP) and the final, approved plan restated on an accrual basis of accounting, which shall  
70 include allowances for incurred but not reported claims: *Provided, however,* That the financial  
71 statements and the accrual-based financial plan restatement shall not affect the approved  
72 financial plan.

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

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

81 (g) The prospective financial plans shall be based on the estimated revenues submitted  
82 in accordance with subdivision (4), subsection (d) of this section and shall include an average of  
83 the projected cost-sharing percentages of premiums and an average of the projected deductibles  
84 and copays for the various programs. Beginning in the plan year which commences on July 1,  
85 2002, and in each plan year thereafter, until and including the plan year which commences on  
86 July 1, 2006, the prospective plans shall include incremental adjustments toward the ultimate level  
87 required in this subsection, in the aggregate cost-sharing percentages of premium between  
88 employers and employees, including the amounts of any subsidization of retired employee  
89 benefits. Effective in the plan year commencing on July 1, 2006, and in each plan year thereafter,  
90 the aggregate premium cost-sharing percentages between employers and employees, including  
91 the amounts of any subsidization of retired employee benefits, shall be at a level of no more than  
92 eighty percent for the employer and no less than twenty percent for employees, except for the  
93 employers provided in subsection (d), section eighteen of this article whose premium cost-sharing

94 percentages shall be governed by that subsection. After the submission of the initial prospective  
95 plan, the board may not increase costs to the participating employers or change the average of  
96 the premiums, deductibles and copays for employees, except in the event of a true emergency  
97 as provided in this section: *Provided*, That if the board invokes the emergency provisions, the cost  
98 shall be borne between the employers and employees in proportion to the cost-sharing ratio for  
99 that plan year: *Provided, however*, That for purposes of this section, "emergency" means that the  
100 most recent projections demonstrate that plan expenses will exceed plan revenues by more than  
101 one percent in any plan year: *Provided further*, That the aggregate premium cost-sharing  
102 percentages between employers and employees, including the amounts of any subsidization of  
103 retired employee benefits, may be offset, in part, by a legislative appropriation for that purpose.

104 (h) The finance board shall meet on at least a quarterly basis to review implementation of  
105 its current financial plan in light of the actual experience of the Public Employees Insurance  
106 Agency. The board shall review actual costs incurred, any revised cost estimates provided by the  
107 actuary, expenditures and any other factors affecting the fiscal stability of the plan and may make  
108 any additional modifications to the plan necessary to ensure that the total financial requirements  
109 of the agency for the current fiscal year are met. The finance board may not increase the types  
110 and levels of cost to employees during its quarterly review except in the event of a true  
111 emergency.

112 (i) For any fiscal year in which legislative appropriations differ from the Governor's estimate  
113 of general and special revenues available to the agency, the finance board shall, within thirty days  
114 after passage of the budget bill, make any modifications to the plan necessary to ensure that the  
115 total financial requirements of the agency for the current fiscal year are met.

NOTE: The purpose of this bill is to eliminate the mandatory 80% of employer, 20% employee cost share on PEIA active employee premiums and to instead set 80% as the maximum employer share and 20% as the minimum employee share.

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