

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4272**

BY DELEGATE NELSON

[BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION]

[Introduced January 24, 2018; Referred  
to the Committee on Pensions and Retirement then  
Finance.]

1 A BILL to amend and reenact §5-16D-1, §5-16D-3, §5-16D-4, and §5-16D-6 of the Code of West  
 2 Virginia, 1931, as amended, all relating to the West Virginia Retirement Health Benefit  
 3 Trust Fund within the Public Employees Insurance Agency, modifying definitions to  
 4 provide flexibility for compliance with the government accounting standards board  
 5 guidance, and allowing the current allocation process for unfunded liability to continue.

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

## **ARTICLE 16D. WEST VIRGINIA RETIREMENT HEALTH BENEFIT TRUST FUND.**

### **§5-16D-1. Definitions.**

1 As used in this article, the term:

2 ~~(a) “Actuarial accrued liability” means that portion, as determined by a particular actuarial~~  
 3 ~~cost method, of the actuarial present value of fund obligations and administrative expenses which~~  
 4 ~~is not provided by future normal costs~~

5 ~~(b)~~ (a) “Actuarial cost method” means a method for determining the actuarial present value  
 6 of the obligations and administrative expenses of the fund and for developing an actuarially  
 7 equivalent allocation of the value to time periods, usually in the form of a normal cost and an  
 8 ~~actuarial accrued liability~~ a total other post-employment benefits liability. Acceptable actuarial  
 9 methods are the aggregate, attained age, entry age, frozen attained age, frozen entry age and  
 10 projected unit credit methods.

11 ~~(c)~~ (b) “Actuarially sound” means that calculated contributions to the fund are sufficient to  
 12 pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of  
 13 providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded  
 14 ~~actuarial accrued liability~~ total other post-employment benefits liability over a period of no more  
 15 than 30 years.

16 ~~(d)~~ (c) “Actuarial present value of total projected benefits” means the present value, at the  
 17 valuation date, of the cost to finance benefits payable in the future, discounted to reflect the  
 18 expected effects of the time value of money and the probability of payment.

19           ~~(e)~~ (d) “Actuarial assumptions” means assumptions regarding the occurrence of future  
20 events affecting the fund such as mortality, withdrawal, disability and retirement; changes in  
21 compensation and offered post-employment benefits; rates of investment earnings and other  
22 asset appreciation or depreciation; procedures used to determine the actuarial value of assets;  
23 and other relevant items.

24           ~~(f)~~ (e) “Actuarial valuation” means the determination, as of a valuation date, of the normal  
25 cost, ~~actuarial accrued liability~~ total other post-employment benefits liability, actuarial value of  
26 assets and related actuarial present values for the fund.

27           ~~(g)~~ (f) “Administrative expenses” means all expenses incurred in the operation of the fund,  
28 including all investment expenses.

29           ~~(h) “Annual required contribution” means the amount employers must contribute in a given~~  
30 ~~year to fully fund the trust, as determined by the actuarial valuation in accordance with~~  
31 ~~requirements of generally accepted accounting principles. This amount shall represent a level of~~  
32 ~~funding that if paid on an ongoing basis is projected to cover the normal cost each year and~~  
33 ~~amortize any unfunded actuarial liabilities of the plan over a period not to exceed thirty years~~

34           ~~(i)~~ (g) “Board” means the Public Employees Insurance Agency Finance Board created in  
35 §5-16-4 of this code.

36           ~~(h)~~ “Collective net other post-employment benefits liability” means for any actuarial  
37 valuation, the excess of the plan’s total other post-employment benefits liability over the actuarial  
38 value of the assets of the fund under an actuarial cost method used by the fund for funding  
39 purposes.

40           ~~(j)~~ (i) “Cost-sharing multiple employer plan” means a single plan with pooling (cost-sharing)  
41 arrangements for the participating employers. All risk, rewards, and costs, including benefit costs,  
42 are shared and not attributed individually to the employers. A single actuarial valuation covers all  
43 plan members and the same contribution rate applies for each employer.

44           ~~(k)~~ (j) “Covered health care expenses” means all actual health care expenses paid by the

45 health plan on behalf of fund beneficiaries. Actual health care expenses include claims payments  
46 to providers and premiums paid to intermediary entities and health care providers by the health  
47 plan.

48 ~~(j)~~ (k) "Employer" means any employer as defined by §5-16-2 of this code which has or  
49 will have retired employees in any Public Employees Insurance Agency health plan.

50 ~~(m)~~ "Employer annual required contribution" means the portion of the annual required  
51 contribution which is the responsibility of that particular employer

52 ~~(n)~~ (l) "Fund" means the West Virginia Retiree Health Benefit Trust Fund established under  
53 this article.

54 ~~(o)~~ (m) "Fund beneficiaries" means all persons receiving post-employment health care  
55 benefits through the health plan.

56 ~~(p)~~ (n) "Health plan" means the health insurance plan or plans established under §5-16-1  
57 *et seq.* of this code.

58 ~~(q)~~ (o) "Minimum annual employer payment" means the annual amount paid by employers  
59 which, when combined with the retirees' contributions on their premiums that year, provide  
60 sufficient funds such that the annual finance plan of the finance board will cover all projected  
61 retiree covered health care expenses and related administrative costs for that year. The finance  
62 board shall develop the minimum annual employer payment as part of its financial plan each year  
63 as addressed in §5-16-5 of this code.

64 ~~(r)~~ (p) "Normal cost" means that portion of the actuarial present value of the fund  
65 obligations and expenses which is allocated to a valuation year by the actuarial cost method used  
66 for the fund.

67 ~~(s)~~ (q) "Obligations" means the administrative expenses of the fund and the cost of covered  
68 health care expenses incurred on behalf of fund beneficiaries.

69 ~~(t)~~ (r) "Other post-employment benefits" or "retiree post-employment health care benefits"  
70 means those benefits as addressed by governmental accounting standards board statement no.

71 43 or any subsequent governmental standards board statement that may be applicable to the  
72 fund.

73 ~~(u)~~ (s) "Plan for other post-employment benefits" means the fiscal funding plan for retiree  
74 post-employment health care benefits as it relates to governmental accounting standards board  
75 statement no. 43 or any subsequent governmental accounting standards board statements that  
76 may be applicable to the fund.

77 (t) "Proportionate share" means the portion of the collective net OPEB Liability that is  
78 attributed to, and the responsibility of, a particular employer.

79 ~~(v)~~ (u) "Retiree" means retired employee as defined by §5-16-2 of this code.

80 ~~(w)~~ (v) "Retirement system" or "system" means the West Virginia Consolidated Public  
81 Retirement Board created and established by §5-10-1 *et seq.* of this code and includes any  
82 retirement systems or funds administered or overseen by the Consolidated Public Retirement  
83 Board.

84 (w) "Total other post-employment benefits liability" means that portion, as determined by  
85 a particular actuarial cost method, of the actuarial present value of fund obligations and  
86 administrative expenses which is not provided by future normal costs.

87 ~~(x) "Unfunded actuarial accrued liability" means for any actuarial valuation the excess of~~  
88 ~~the actuarial accrued liability over the actuarial value of the assets of the fund under an actuarial~~  
89 ~~cost method used by the fund for funding purposes~~

### **§5-16D-3. Operation of trust fund.**

1 (a) Responsibility for the rules and policies for the proper operation of the fund is vested  
2 in the board.

3 (b) The board shall adopt actuarial assumptions as it deems necessary and prudent.

4 (c) The board shall determine the ~~annual required~~ contribution rates and proportionate  
5 share sufficient to maintain the fund in accordance with the state plan for other post-employment  
6 benefits.

7 (d) The board may promulgate, in accordance with §29A-1-1 *et seq.* of this code, any rules  
8 it finds necessary to properly administer the fund. The board may promulgate emergency rules  
9 pursuant to the provisions of §29A-3-15 of this code.

10 (e) The Public Employees Insurance Agency shall furnish reports to the board at each of  
11 the board's regularly scheduled meetings. The reports shall contain the most recent information  
12 reasonably available to the Public Employees Insurance Agency reflecting the obligations of the  
13 fund, earnings on investments, and such other information as the board deems necessary and  
14 appropriate.

15 (f) The Secretary of the Department of Administration, as ~~chairman~~ chair of the board,  
16 shall cause to be employed within the Public Employees Insurance Agency such personnel as  
17 may be needed to carry out the provisions of this article. The pro rata share of the costs to the  
18 Public Employees Insurance Agency of operating the fund shall be part of the administrative costs  
19 of the fund and shall be reimbursed to the Public Employees Insurance Agency.

20 (g) The Public Employees Insurance Agency, on the board's behalf, shall be responsible  
21 for the day-to-day operation of the fund and may employ or contract for the services of actuaries  
22 and other professionals as required to carry out the duties established by this article.

23 (h) The board shall contract with the West Virginia Investment Management Board for any  
24 necessary services with respect to fund investments.

25 (i) The Public Employees Insurance Agency, on the board's behalf, shall maintain all  
26 necessary records regarding the fund in accordance with generally accepted accounting  
27 principles.

28 (j) The Public Employees Insurance Agency, on the board's behalf, shall collect all moneys  
29 due to the fund and shall pay current post-employment healthcare costs and any administrative  
30 expenses necessary and appropriate for the operation of the fund from the fund. The fund's assets  
31 shall be maintained and accounted for in state funds. The state funds shall be: (1) The Other  
32 Post-Employment Benefit Contribution Accumulation Fund; (2) the Other Post-Employment

33 Benefit Investment Fund; and (3) the Other Post-Employment Benefit Expense Fund. These funds  
 34 will be maintained by the Public Employees Insurance Agency on the board's behalf.

35 (k) The Public Employees Insurance Agency, on the board's behalf, shall prepare an  
 36 annual report of fund activities. ~~Such~~ The report shall include, but not be limited to, independently  
 37 audited financial statements in accordance with generally accepted accounting principles. The  
 38 financial statements must be independently audited in accordance with auditing standards  
 39 generally accepted in the United States and the standards applicable to financial audits contained  
 40 in government auditing standards as issued by the Comptroller General of the United States.

41 (l) Notwithstanding any other provision of law to the contrary, the Public Employees  
 42 Insurance Agency shall be entitled to request and receive any information that it deems necessary  
 43 and appropriate from any relevant retirement system in order that the provisions of this article  
 44 may be carried out.

**§5-16D-4. Actuary.**

1 (a) The actuary employed or retained by the Public Employees Insurance Agency shall  
 2 provide technical advice to the Public Employees Insurance Agency and to the board regarding  
 3 the operation of the fund.

4 (b) Using the actuarial assumptions most recently adopted by the board, the actuary shall,  
 5 on a biannual basis, or as frequently as the board or generally accepted accounting principles  
 6 deems ~~determines~~ necessary, set actuarial valuations of normal cost, actuarial liability, actuarial  
 7 value of assets, and related actuarial present values for the state plan for other post-employment  
 8 benefits.

**§5-16D-6. Mandatory employer contributions.**

1 (a) The board shall annually set the ~~total annual required contribution~~ minimum annual  
 2 employer payment sufficient to maintain the fund in ~~an actuarially sound manner~~ in accordance  
 3 with ~~generally accepted accounting principles~~ the annual finance plan.

4 (b) The board shall annually allocate to the respective employers the employer's ~~portion~~

5 of the annual required contribution, which allocated amount is the “employer annual required  
6 contribution” proportionate share of the collective net other post-employment liability as  
7 determined by the actuarial valuation in accordance with generally accepted accounting  
8 principles.

9 (e) ~~The board may apportion the annual required contribution into various components.~~  
10 ~~These components may include the amortized unfunded actuarial accrued liability, the total~~  
11 ~~normal cost, the employer annual required contribution and the lesser included minimum annual~~  
12 ~~employer payment. In the board's annual apportionment of the annual required contribution, any~~  
13 ~~amounts of the minimum annual employer payment apportioned to reduce the amortized~~  
14 ~~unfunded actuarial accrued liability shall not be treated as premium by the board in the finance~~  
15 ~~plan but, rather, shall be treated as contributions to prefund other post-employment benefits~~

16 (d) (c) Employers shall make annual contributions to the fund in, at least, the amount of  
17 the minimum annual employer payment rates established by the board.

18 (e) (d) The Public Employees Insurance Agency shall bill each employer for the ~~employer~~  
19 ~~annual required contribution and the included~~ minimum annual employer payment. The Public  
20 Employees Insurance Agency shall annually collect the minimum annual employer payment. The  
21 Public Employees Insurance Agency shall, in addition to the minimum annual employer payment,  
22 collect any amounts the employer elects to pay toward the employer annual required contribution.  
23 Any ~~employer annual required contribution~~ employer's proportionate share of the collective net  
24 other post-employment amount not satisfied by the respective employer shall remain the liability  
25 of that employer until fully paid or otherwise amortized.

NOTE: The purpose of this bill is to change some definitions to provide some flexibility for PEIA to comply with GASB 74 and 75 and remain consistent with the established liability allocation process to address the unfunded liability.

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