

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Originating**

### **House Bill 3139**

BY DELEGATES CRISS, ELLINGTON, HARTMAN, BATES AND

BARRETT

[Originating in the Committee on Finance; Reported  
on February 21, 2019]

1 A BILL to amend and reenact §5-16-25 of the Code of West Virginia, 1931, as amended; to amend  
2 said code by adding thereto a new section, designated §5-16-27; to amend said code by  
3 adding thereto a new section, designated §11B-2-15a, all relating generally to funding of  
4 Public Employees Health Insurance Program; requiring the finance board to maintain a  
5 reserve fund at actuarially recommended amounts of at least 10 percent of plan costs;  
6 removing requirement to transfer moneys resulting from plan savings into reserve fund;  
7 removing requirement that excess funds be transferred to West Virginia Retiree Health  
8 Benefit Trust Fund; establishing PEIA Rainy Day Fee and providing for its assessment  
9 and collection in current fiscal year of the state; establishing PEIA Rainy Day Fund as  
10 special, nonexpiring, interest-bearing revenue account in the State Treasury to be funded  
11 by Rainy Day Fee assessments; authorizing the Secretary of Revenue to assess and  
12 collect fee and give special revenue agencies additional time to pay fee when undue  
13 hardship exists; providing for the administration of the fund, including investment of funds,  
14 transfer of funds, and purposes for which the fund can be used; and authorizing the  
15 promulgation of emergency and legislative rules.

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

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

**§5-16-25. Reserve fund.**

1 Upon the effective date of this section, the finance board shall establish and maintain a  
2 reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year. Beginning

3 with the fiscal year 2002 plan and for each succeeding fiscal year plan, the finance board shall  
4 ~~transfer~~ maintain the actuarily recommended reserve in an amount no less than 10 percent of the  
5 projected total plan costs for that fiscal year in ~~to~~ in the reserve fund, which is to be certified by the  
6 actuary and included in the final, approved financial plan submitted to the Governor and  
7 Legislature in accordance with the provisions of this article. ~~Any moneys saved in a plan year~~  
8 ~~shall be transferred into the reserve fund. At the close of any fiscal year in which the balance in~~  
9 ~~the reserve fund exceeds the recommended reserve amount by fifteen percent, the executive~~  
10 ~~director shall transfer that amount to the West Virginia Retiree Health Benefit Trust Fund created~~  
11 ~~in section two, article sixteen-d of this chapter~~

**§5-16-27. PEIA Rainy Day Fee.**

1 (a) The purpose of this section is to provide for the assessment of a PEIA Rainy Day Fee  
2 to be paid by employers participating in PEIA for each full-time equivalent employee of the  
3 employer for the purpose of funding the PEIA Rainy Day Fund established in §11B-2-15a of this  
4 code in the amount of \$150 million.

5 (b) The Secretary of Revenue shall assess and collect from employers participating in  
6 PEIA, a Rainy Day Fee for each full-time equivalent employee of the employer determined as of  
7 April 1, 2019. The fee amount may be set at any amount determined by the Secretary of Revenue  
8 to be necessary to fund the PEIA Rainy Day Fund established in §11B-2-15a of this code, at the  
9 amount specified in this section: *Provided*, That the fee amount shall be uniform for each full-time  
10 equivalent employee of every employer assessed the fee pursuant to this section. The Secretary  
11 of Revenue shall give each employer written notice of the amount of their respective fee  
12 assessment prior to June 30, 2019. Payments of the fee by state agencies shall be made in  
13 accordance with payment instructions issued by the State Budget Office prior to June 30, 2019.

14 (c) Each employer shall pay to the Secretary of Revenue the amount of the employer's  
15 assessment before June 30, 2020. Payments may be made from unencumbered funds from the  
16 budget year ending June 30, 2019, or from funds available to the agency in the fiscal year ending

17 June 30, 2020, or from funds available to the agency in both fiscal years. When payment of the  
18 amount assessed creates an undue hardship for an employer, the employer may submit a written  
19 application for a hardship waiver to the Secretary of Revenue providing the information required  
20 by the secretary. Upon consideration of the application, the secretary may, in his or her sole  
21 discretion, grant the employer an additional 6 months in which to pay the Rainy Day Fee  
22 assessment pursuant to this section. The secretary shall deposit all payments collected into the  
23 PEIA Rainy Day Fund established in §11B-2-15a of this code.

24 (d) The Secretary of Revenue may promulgate legislative rules, and emergency as  
25 provided in §29A-3-15 of this code, as the secretary considers to be necessary to implement and  
26 administer the provisions of this section.

## **CHAPTER 11B. DEPARTMENT OF REVENUE.**

### **ARTICLE 2. STATE BUDGET OFFICE.**

#### **§11B-2-15a. PEIA Rainy Day Fund.**

1 (a) There is hereby created in the State Treasury a special account, designated the PEIA  
2 Rainy Day Fund, which is an interest-bearing account administered by the Secretary of Revenue  
3 in accordance with the provisions of this section.

4 (b) The PEIA Rainy Day Fund shall consist of moneys collected from the PEIA Rainy Day  
5 Fee imposed pursuant to §5-16-27 of this code, income from investment of moneys held in the  
6 special revenue account, and all other sums available for deposit to the account, public or private.  
7 Any balance remaining in the special revenue account at the end of the fiscal year does not revert  
8 to the General Revenue Fund but remains in the special revenue account and may be used in a  
9 manner consistent with this article.

10 (c) The Secretary of Revenue, upon the written approval of the Governor, may transfer  
11 moneys from the PEIA Rainy Day Fund to the Public Employees Insurance Agency only to (1)  
12 reduce or prevent benefit cuts, (2) reduce premium increases, or (3) any combination thereof.  
13 The amount of moneys transferred may be included in the calculation of any plan year aggregate

14 premium cost-sharing percentages between employers and employees.

15 (d) The Secretary of Revenue may contract with the West Virginia Investment  
16 Management Board, or the West Virginia Board of Treasury Investments, for any services with  
17 respect to fund investments which the secretary considers necessary.

18 (e) The Secretary of Revenue may promulgate legislative rules, and emergency rules as  
19 provided in §29A-3-15 of this code, as the secretary considers necessary to implement and  
20 administer the provisions of this section.

NOTE: The purpose of this bill is to provide more flexibility to the Public Employees Insurance Agency to manage the reserves and financing of the plan on a year-to-year basis. The bill requires the PEIA reserve fund to be maintained at an actuarially recommended amount and removes the requirement that any amount in excess of 15 percent of the recommended reserve be transferred out of the fund and into the Retiree Health Benefit Trust Funds. The bill establishes the Rainy Day Fee as a dedicated source of funding for PEIA; provides for those funds to be deposited in a new special revenue account created in the State Treasury to be known as the PEIA Rainy Day Fund.

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