

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### Senate Bill 386

FISCAL  
NOTE

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Introduced January 22, 2019; Referred

to the Committee on Finance]

1 A BILL to amend and reenact §5-16-25 of the Code of West Virginia, 1931, as amended; to  
 2 amend said code by adding thereto a new section, designated §5-16-27; and to amend  
 3 said code by adding thereto a new section, designated §11B-2-15a, all relating generally  
 4 to funding of Public Employees Health Insurance Program; requiring the finance board to  
 5 maintain a reserve fund at actuarily recommended amounts of at least 10 percent of plan  
 6 costs; removing requirement to transfer moneys resulting from plan savings into reserve  
 7 fund; removing the cap in reserve fund of 15 percent before a transfer to West Virginia  
 8 Retiree Health Benefit Trust Fund; establishing PEIA Rainy Day Fee and providing for its  
 9 assessment and collection in current fiscal year of the state; providing for the Legislature  
 10 to authorize assessment of PEIA Rainy Day Fee in subsequent fiscal years; establishing  
 11 PEIA Rainy Day Fund as special, nonexpiring, interest-bearing revenue account in the  
 12 State Treasury to be funded by PEIA Rainy Day Fee assessments; authorizing the  
 13 Secretary of Revenue to assess and collect fee and give special revenue agencies  
 14 additional time to pay fee when undue hardship exists; providing for the administration of  
 15 the fund, including investment of funds, transfer of funds, and purposes for which the fund  
 16 can be used; and authorizing the 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 actuarially recommended reserve in an amount no less than 10 percent of the  
5 projected total plan costs for that fiscal year ~~into~~ 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  
8 Revenue to be necessary to fund the PEIA Rainy Day Fund established in §11B-2-15a of this  
9 code, at the amount specified in this section: *Provided*, That the fee amount shall be uniform for  
10 each full-time equivalent employee of every employer assessed the fee pursuant to this section.  
11 The Secretary of Revenue shall give each employer written notice of the amount of their  
12 respective fee assessment prior to June 30, 2019. Payments of the fee by state agencies shall  
13 be made in accordance with payment instructions issued by the State Budget Office prior to June  
14 30, 2019.

15 (c) Each employer shall pay to the Secretary of Revenue the amount of the employer's

16 assessment before June 30, 2020. Payments may be made from unencumbered funds from the  
 17 budget year ending June 30, 2019, or from funds available to the agency in the fiscal year ending  
 18 June 30, 2020, or from funds available to the agency in both fiscal years. When payment of the  
 19 amount assessed creates an undue hardship for a special revenue agency of the state, the special  
 20 revenue agency may submit a written application for a hardship waiver to the Secretary of  
 21 Revenue providing the information required by the secretary. Upon consideration of the  
 22 application, the secretary may, in his or her sole discretion, grant the special revenue agency an  
 23 additional 6 months in which to pay the Rainy Day Fee assessment pursuant to this section. The  
 24 secretary shall deposit all payments collected into the PEIA Rainy Day Fund established in §11B-  
 25 2-15a of this code.

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

29 (e) The Legislature may by general law permit the Secretary of Revenue to assess and  
 30 collect a Rainy Day Fee as provided in this section in any subsequent fiscal year of the state.

## **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 Investment, for any services with  
17 respect to fund investments which the secretary considers necessary.

18 (e) The Secretary of Revenue may promulgate emergency and legislative 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; and authorizes the Legislature to permit the Secretary of Revenue to assess and collect Rainy Day Fees in subsequent fiscal years of the state.

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