

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 73

By Senator Weld

[Introduced January 11, 2023; referred to
the Committee on Banking and Insurance]

1 A BILL to amend and reenact §5-16-22 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §33-46-18 of said code, all relating to removing the Public Employees
 3 Insurance Agency's exemption from the provisions of chapters 5 and 33 of the Code of
 4 West Virginia.

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.

§5-16-22. Permissive participation; exemptions.

1 The provisions of this article are not mandatory upon any employee or employer who is not
 2 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 compels any employee or employer to enroll in or subscribe to any insurance plan
 5 authorized by the provisions of this article: *Provided*, That nothing in this section requires a public
 6 charter school to participate in the Public Employees Insurance Agency program.

7 Those employees enrolled in the insurance program authorized under the provisions of
 8 §21A-2B-1 *et seq.* of this code are not required to enroll in or subscribe to an insurance plan or
 9 plans authorized by the provisions of this article, and the employees of any department which has
 10 an existing insurance program for its employees to which the government of the United States
 11 contributes any part or all of the premium or cost of the premium may be exempted from the
 12 provisions of this article. Any employee or employer exempted under the provisions of this
 13 paragraph may enroll in any insurance program authorized by the provisions of this article at any

14 time, to the same extent as any other qualified employee or employer, but employee or employer
15 may not remain enrolled in both programs.

16 ~~Any plan established or administered by the Public Employees Insurance Agency pursuant~~
17 ~~to this article is exempt from the provisions of chapter 33 of this code unless explicitly stated.~~
18 ~~Notwithstanding any provision of this code to the contrary, the Public Employees Insurance~~
19 ~~Agency is not an insurer or engaged in the business of insurance as defined in chapter 33 of this~~
20 ~~code~~

21 Employers, other than the State of West Virginia, its boards, agencies, commissions,
22 departments, institutions, spending units, or a county board of education, are exempt from
23 participating in the insurance program provided for by the provisions of this article unless
24 participation by the employer has been approved by a majority vote of the employer's governing
25 body. It is the duty of the clerk or secretary of the governing body of an employer who by majority
26 vote becomes a participant in the insurance program to notify the director not later than 10 days
27 after the vote.

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

40 active employee of the employer for at least five years: *Provided, however,* That those retired
41 employees of an employer not participating in the plan who retire on or after July 1, 2010, who
42 have participated in the plan as active employees of the employer for less than five years are
43 responsible for the entire premium cost for coverage and the Public Employees Insurance Agency
44 shall bill for and collect the entire premium from the retired employees, unless the employer elects
45 to pay the employer share of the premium. Each employer is hereby authorized and required to
46 budget for and make such payments as are required by this section.

CHAPTER 33. INSURANCE.

ARTICLE 46. THIRD-PARTY ADMINISTRATOR ACT.

§33-46-18. Exemption for administrators of public health programs.

1 Programs supervised by the Department of Health and Human Resources, pursuant to §9-
2 1-1 *et seq.* of this code ~~the Public Employees Insurance Agency, pursuant to articles sixteen and~~
3 ~~sixteen-c, chapter five of this code~~ and the Department of Administration, pursuant to article
4 sixteen-b, chapter five of this code, are exempted from the provisions of this article. Third-party
5 administrators who administer the above-referenced programs are exempt from the provisions of
6 this article with respect to these specific programs only.