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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

3RD Extraordinary Session, 2005

ENROLLED

SENATE BILL NO. 3003

(By Senator Tomblin, Mr. President, and Sprouse
By Request of the Executive)

PASSED May 17, 2005

In Effect July 8, 2005 **Passage**

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Senate Bill No. 3003

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed May 17, 2005; to take effect July 8, 2005.]

AN ACT to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating generally to the subsidization of active and retired state pool employees' public employees insurance premiums; authorizing subsidization of a portion of the aggregate cost-sharing percentages of premium between employers and active employees for a limited period by use of certain insurance policy surcharges; and authorizing subsidization of incremental costs for retired state pool employees from a reserve fund of the Public Employees Insurance Agency.

Be it enacted by the Legislature of West Virginia:

That §5-16-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted 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
2 article is to bring fiscal stability to the Public Employees
3 Insurance Agency through development of annual finan-
4 cial plans and long-range plans designed to meet the
5 Agency's estimated total financial requirements, taking
6 into account all revenues projected to be made available to
7 the Agency and apportioning necessary costs equitably
8 among participating employers, employees and retired
9 employees and providers of health care services.

10 (b) The Finance Board shall retain the services of an
11 impartial, professional actuary, with demonstrated
12 experience in analysis of large group health insurance
13 plans, to estimate the total financial requirements of the
14 Public Employees Insurance Agency for each fiscal year
15 and to review and render written professional opinions as
16 to financial plans proposed by the Finance Board. The
17 actuary shall also assist in the development of alternative
18 financing options and perform any other services re-
19 quested by the Finance Board or the Director. All reason-
20 able fees and expenses for actuarial services shall be paid
21 by the Public Employees Insurance Agency. Any financial
22 plan or modifications to a financial plan approved or
23 proposed by the Finance Board pursuant to this section
24 shall be submitted to and reviewed by the actuary and may
25 not be finally approved and submitted to the Governor and
26 to the Legislature without the actuary's written profes-
27 sional opinion that the plan may be reasonably expected
28 to generate sufficient revenues to meet all estimated
29 program and administrative costs of the agency, including
30 incurred but unreported claims, for the fiscal year for
31 which the plan is proposed. The actuary's opinion on the
32 financial plan for each fiscal year shall allow for no more
33 than thirty days of accounts payable to be carried over
34 into the next fiscal year. The actuary's opinion for any
35 fiscal year shall not include a requirement for establish-
36 ment of a reserve fund.

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

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

42 (2) Any necessary cost containment measures for imple-
43 mentation by the Director;

44 (3) The levels of premium costs to participating employ-
45 ers; and

46 (4) The types and levels of cost to participating employ-
47 ees and retired employees.

48 The financial plans may provide for different levels of
49 costs based on the insureds' ability to pay. The Finance
50 Board may establish different levels of costs to retired
51 employees based upon length of employment with a
52 participating employer, ability to pay or other relevant
53 factors. The financial plans may also include optional
54 alternative benefit plans with alternative types and levels
55 of cost. The Finance Board may develop policies which
56 encourage the use of West Virginia health care providers.

57 In addition, the Finance Board may allocate a portion of
58 the premium costs charged to participating employers to
59 subsidize the cost of coverage for participating retired
60 employees, on such terms as the Finance Board determines
61 are equitable and financially responsible.

62 (d)(1) The Finance Board shall prepare an annual
63 financial plan for each fiscal year during which the
64 Finance Board remains in existence. The Finance Board
65 Chairman shall request the actuary to estimate the total
66 financial requirements of the Public Employees Insurance
67 Agency for the fiscal year.

68 (2) The Finance Board shall prepare a proposed financial
69 plan designed to generate revenues sufficient to meet all
70 estimated program and administrative costs of the Public
71 Employees Insurance Agency for the fiscal year. The
72 proposed financial plan shall allow for no more than thirty
73 days of accounts payable to be carried over into the next

74 fiscal year. Before final adoption of the proposed financial
75 plan, the Finance Board shall request the actuary to
76 review the plan and to render a written professional
77 opinion stating whether the plan will generate sufficient
78 revenues to meet all estimated program and administrative
79 costs of the Public Employees Insurance Agency for the
80 fiscal year. The actuary's report shall explain the basis of
81 its opinion. If the actuary concludes that the proposed
82 financial plan will not generate sufficient revenues to meet
83 all anticipated costs, then the Finance Board shall make
84 necessary modifications to the proposed plan to ensure
85 that all actuarially determined financial requirements of
86 the agency will be met.

87 (3) Upon obtaining the actuary's opinion, the Finance
88 Board shall conduct one or more public hearings in each
89 congressional district to receive public comment on the
90 proposed financial plan, shall review such comments and
91 shall finalize and approve the financial plan.

92 (4) Any financial plan shall be designed to allow thirty
93 days or less of accounts payable to be carried over into the
94 next fiscal year. For each fiscal year, the Governor shall
95 provide his or her estimate of total revenues to the Finance
96 Board no later than the fifteenth day of October of the
97 preceding fiscal year: *Provided*, That, for the prospective
98 financial plans required by this section, the Governor shall
99 estimate the revenues available for each fiscal year of the
100 plans based on the estimated percentage of growth in
101 general fund revenues. The Finance Board shall submit its
102 final, approved financial plan, after obtaining the neces-
103 sary actuary's opinion and conducting one or more public
104 hearings in each congressional district, to the Governor
105 and to the Legislature no later than the first day of
106 January preceding the fiscal year. The financial plan for
107 a fiscal year becomes effective and shall be implemented
108 by the Director on the first day of July of the fiscal year.
109 In addition to each final, approved financial plan required
110 under this section, the Finance Board shall also simulta-
111 neously submit financial statements based on generally

112 accepted accounting practices (GAAP) and the final,
113 approved plan restated on an accrual basis of accounting,
114 which shall include allowances for incurred but not
115 reported claims: *Provided, however,* That the financial
116 statements and the accrual-based financial plan restate-
117 ment shall not affect the approved financial plan.

118 (e) The provisions of chapter twenty-nine-a of this code
119 shall not apply to the preparation, approval and imple-
120 mentation of the financial plans required by this section.

121 (f) By the first day of January of each year the Finance
122 Board shall submit to the Governor and the Legislature a
123 prospective financial plan, for a period not to exceed five
124 years, for the programs provided in this article. Factors
125 that the Board shall consider include, but are not limited
126 to, the trends for the program and the industry; the
127 medical rate of inflation; utilization patterns; cost of
128 services; and specific information such as average age of
129 employee population, active to retiree ratios, the service
130 delivery system and health status of the population.

131 (g) The prospective financial plans shall be based on the
132 estimated revenues submitted in accordance with subdivi-
133 sion (4), subsection (d) of this section and shall include an
134 average of the projected cost-sharing percentages of
135 premiums and an average of the projected deductibles and
136 copays for the various programs. Beginning in the plan
137 year which commences on the first day of July, two
138 thousand two, and in each plan year thereafter, until and
139 including the plan year which commences on the first day
140 of July, two thousand six, the prospective plans shall
141 include incremental adjustments toward the ultimate level
142 required in this subsection, in the aggregate cost-sharing
143 percentages of premium between employers and employ-
144 ees: *Provided,* That for the period beginning the first day
145 of July, two thousand five, through the thirty-first day of
146 December, two thousand five, the portion of the policy
147 surcharge collected from certain fire and casualty insurers
148 and transferred into the fund in the State Treasury of the

149 Public Employees Insurance Agency pursuant to the
150 provisions of section thirty-three, article three, chapter
151 thirty-three of this code shall be used, in lieu of an in-
152 crease in costs to active state pool employees, to subsidize
153 any incremental adjustment in those employees' portion of
154 the aggregate cost-sharing percentages of premium
155 between employers and employees. The foregoing does not
156 prohibit any premium increase occasioned by an em-
157 ployee's increase in salary: *Provided, however,* That for
158 the period beginning the first day of July, two thousand
159 five, through the thirty-first day of December, two thou-
160 sand five, in lieu of an increase in costs to retired state
161 pool employees, such funds as are necessary to subsidize
162 any increase in costs to retired state pool employees shall
163 be transferred from the reserve fund established in section
164 twenty-five of this article into the fund in the State
165 Treasury of the Public Employees Insurance Agency.
166 Effective in the plan year commencing on the first day of
167 July, two thousand six, and in each plan year thereafter,
168 the aggregate premium cost-sharing percentages between
169 employers and employees shall be at a level of eighty
170 percent for the employer and twenty percent for employ-
171 ees, except for the employers provided in subsection (d),
172 section eighteen of this article whose premium cost-
173 sharing percentages shall be governed by that subsection.
174 After the submission of the initial prospective plan, the
175 Board may not increase costs to the participating employ-
176 ers or change the average of the premiums, deductibles
177 and copays for employees, except in the event of a true
178 emergency as provided in this section: *Provided further,*
179 That if the Board invokes the emergency provisions, the
180 cost shall be borne between the employers and employees
181 in proportion to the cost-sharing ratio for that plan year:
182 *And provided further,* That for purposes of this section,
183 "emergency" means that the most recent projections
184 demonstrate that plan expenses will exceed plan revenues
185 by more than one percent in any plan year.

186 (h) The Finance Board shall meet on at least a quarterly
187 basis to review implementation of its current financial
188 plan in light of the actual experience of the Public Em-
189 ployees Insurance Agency. The Board shall review actual
190 costs incurred, any revised cost estimates provided by the
191 actuary, expenditures and any other factors affecting the
192 fiscal stability of the plan and may make any additional
193 modifications to the plan necessary to ensure that the total
194 financial requirements of the agency for the current fiscal
195 year are met. The Finance Board may not increase the
196 types and levels of cost to employees during its quarterly
197 review except in the event of a true emergency.

198 (i) For any fiscal year in which legislative appropriations
199 differ from the Governor's estimate of general and special
200 revenues available to the Agency, the Finance Board shall,
201 within thirty days after passage of the budget bill, make
202 any modifications to the plan necessary to ensure that the
203 total financial requirements of the agency for the current
204 fiscal year are met.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chandy White
.....
Chairman Senate Committee

Orlando B...
.....
Chairman House Committee

Originated in the Senate.

To take effect July 8, 2005.

Ronald Elphie
.....
Clerk of the Senate

Gregory D. ...
.....
Clerk of the House of Delegates

Earl Ray Tomlin
.....
President of the Senate

Robert ...
.....
Speaker House of Delegates

The within *is appended* this the *76th*
Day of *May*, 2005.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 25 2005

Time 4:05pm