

1 **H. B. 4417**

2
3 (By Delegates White, Hall, Ferns, R. Phillips,
4 D. Polling, Morgan, Stowers and Marcum)

5 [By Request of the Department of Administration]

6 [Introduced February 3, 2012; referred to the
7 Committee on Banking and Insurance then the Judiciary.]

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10 A BILL to amend and reenact §5-16-22 of the Code of West Virginia,
11 1931, as amended, relating to the nonapplicability of chapter
12 thirty-three of this code, regulating insurance, to the Public
13 Employees Insurance Agency.

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

15 That §5-16-22 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

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

18 **§5-16-22. Permissive participation; exemptions.**

19 The provisions of this article are not mandatory upon any
20 employee or employer who is not an employee of or is not the State
21 of West Virginia, its boards, agencies, commissions, departments,
22 institutions or spending units or a county board of education, and
23 nothing contained in this article ~~may be construed so as to compel~~
24 compels any employee or employer to enroll in or subscribe to any

1 insurance plan authorized by the provisions of this article.

2 Those employees enrolled in the insurance program authorized
3 under the provisions of article two-b, chapter twenty-one-a of this
4 code ~~may~~ are not ~~be~~ required to enroll in or subscribe to an
5 insurance plan or plans authorized by the provisions of this
6 article, and the employees of any department which has an existing
7 insurance program for its employees to which the government of the
8 United States contributes any part or all of the premium or cost of
9 the premium may be exempted from the provisions of this article.
10 Any employee or employer exempted under the provisions of this
11 paragraph may enroll in any insurance program authorized by the
12 provisions of this article at any time, to the same extent as any
13 other qualified employee or employer, but employee or employer may
14 not remain enrolled in both programs. ~~The provisions of articles~~
15 ~~fourteen, fifteen and sixteen, chapter thirty-three of this code,~~
16 ~~relating to group life insurance, accident and sickness insurance,~~
17 ~~and group accident and sickness insurance, are not applicable to~~
18 ~~the provisions of this article whenever the provisions of articles~~
19 ~~fourteen, fifteen and sixteen, chapter thirty-three of this code~~
20 ~~are in conflict with or contrary to any provision set forth in this~~
21 ~~article or to any plan or plans established by the Public Employees~~
22 ~~Insurance Agency. The provisions of chapter thirty-three of this~~
23 ~~code are not applicable to this article or to any plan established~~
24 ~~or administered by the Public Employees Insurance Agency, except~~

1 for any provision of that chapter that is expressly and
2 specifically made applicable to this article or a plan established
3 or administered by the Public Employees Insurance Agency in chapter
4 thirty-three of this code. Notwithstanding any other provision of
5 this code to the contrary, the Public Employees Insurance Agency is
6 not an "insurer" or engaged in the "business of insurance" as
7 defined in chapter thirty-three of this code.

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

17 Any employer, whether the employer participates in the Public
18 Employees Insurance Agency insurance program as a group or not,
19 which has retired employees, their dependents or surviving
20 dependents of deceased retired employees who participate in the
21 Public Employees Insurance Agency insurance program as authorized
22 by this article, shall pay to the agency the same contribution
23 toward the cost of coverage for its retired employees, their
24 dependents or surviving dependents of deceased retired employees as

1 the State of West Virginia, its boards, agencies, commissions,
2 departments, institutions, spending units or a county board of
3 education pay for their retired employees, their dependents and
4 surviving dependents of deceased retired employees, as determined
5 by the finance board: *Provided*, That after June 30, 1996, an
6 employer not mandated to participate in the plan is only required
7 to pay a contribution toward the cost of coverage for its retired
8 employees, their dependents or the surviving dependents of deceased
9 retired employees who elect coverage when the retired employee
10 participated in the plan as an active employee of the employer for
11 at least five years: *Provided, however*, That those retired
12 employees of an employer not participating in the plan who retire
13 on or after July 1, 2010, who have participated in the plan as
14 active employees of the employer for less than five years are
15 responsible for the entire premium cost for coverage and the Public
16 Employees Insurance Agency shall bill for and collect the entire
17 premium from the retired employees, unless the employer elects to
18 pay the employer share of the premium. Each employer is ~~hereby~~
19 authorized and required to budget for and make ~~such~~ payments ~~as are~~
20 required by this section.

NOTE: The purpose of this bill is to expressly exempt the Public Employees Insurance Agency or any plan established by the Public Employees Insurance Agency from the requirements of the insurance provisions of chapter thirty-three of this code, except

where those provisions are made expressly applicable to the Public Employees Insurance Agency in chapter thirty-three.

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