

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2310

BY DELEGATE SPONAUGLE

[Introduced January 11, 2019; Referred
to the Committee on Government Organization then
Finance.]

1 A BILL to repeal §5-16-5 and §5-16-5a of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §5-16-2, §5-16-4, §5-16-7 and §5-16-26 of said code; and to amend and
 3 reenact §18-9A-24 of said code, all relating to repealing the Public Employees Insurance
 4 Agency Finance Board.

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.

§5-16-2. Definitions.

1 The following words and phrases as used in this article, unless a different meaning is
 2 clearly indicated by the context, have the following meanings:

3 ~~(1)~~ "Agency" means the Public Employees Insurance Agency created by this article.

4 ~~(2)~~ "Director" means the Director of the Public Employees Insurance Agency created by
 5 this article.

6 ~~(3)~~ "Employee" means any person, including an elected officer, who works regularly full
 7 time in the service of the State of West Virginia and, for the purpose of this article only, the term
 8 "employee" also means any person, including an elected officer, who works regularly full time in
 9 the service of a county board of education; a county, city, or town in the state; any separate
 10 corporation or instrumentality established by one or more counties, cities, or towns, as permitted
 11 by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any
 12 public corporation charged by law with the performance of a governmental function and whose
 13 jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive

14 community mental health center, or comprehensive mental retardation facility established,
15 operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of
16 this code and which is supported in part by state, county, or municipal funds; any person who
17 works regularly full time in the service of the Higher Education Policy Commission, the West
18 Virginia Council for Community and Technical College Education or a governing board, as defined
19 in §18b-1-2 of this code; any person who works regularly full time in the service of a combined
20 city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person
21 designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person
22 who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county
23 board of education: *Provided*, That a long-term substitute who is continuously employed for at
24 least one hundred thirty-three instructional days during an instructional term, and until the end of
25 that instructional term, is eligible for the benefits provided in this article until September 1,
26 following that instructional term: *Provided, however*, That a long-term substitute employed fewer
27 than 133 instructional days during an instructional term is eligible for the benefits provided in this
28 article only during such time as he or she is actually employed as a long-term substitute. On and
29 after January 1, 1994, and upon election by a county board of education to allow elected board
30 members to participate in the Public Employees Insurance Program pursuant to this article, any
31 person elected to a county board of education shall be considered to be an “employee” during the
32 term of office of the elected member. Upon election by the State Board of Education to allow
33 appointed board members to participate in the Public Employees Insurance Program pursuant to
34 this article, any person appointed to the State Board of Education is considered an “employee”
35 during the term of office of the appointed member: *Provided further*, That the elected member of
36 a county board of education and the appointed member of the State Board of Education shall pay
37 the entire cost of the premium if he or she elects to be covered under this article. Any matters of
38 doubt as to who is an employee within the meaning of this article shall be decided by the director.

39 On or after July 1, 1997, a person shall be considered an “employee” if that person meets

40 the following criteria:

41 (i) (A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

42 (ii) (B) Has been designated, in writing, by all other participants in that job-sharing
43 arrangement as the “employee” for purposes of this section; and

44 (iii) (C) Works at least one third of the time required for a full-time employee.

45 (4) “Employer” means the State of West Virginia, its boards, agencies, commissions,
46 departments, institutions, or spending units; a county board of education; a county, city, or town
47 in the state; any separate corporation or instrumentality established by one or more counties,
48 cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by
49 counties, cities, or towns; any public corporation charged by law with the performance of a
50 governmental function and whose jurisdiction is coextensive with one or more counties, cities, or
51 towns; any comprehensive community mental health center or comprehensive mental retardation
52 facility established, operated or licensed by the Secretary of Health and Human Resources
53 pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal
54 funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code;
55 and a corporation meeting the description set forth in §18A-12-3 of this code that is employing a
56 21st Century Learner Fellow pursuant to §18-3-11 of this code but the corporation is not
57 considered an employer with respect to any employee other than a 21st Century Learner Fellow.
58 Any matters of doubt as to who is an “employer” within the meaning of this article shall be decided
59 by the director. The term “employer” does not include within its meaning the National Guard.

60 ~~(5) “Finance board” means the Public Employees Insurance Agency finance board created~~
61 ~~by this article~~

62 (6) “Person” means any individual, company, association, organization, corporation, or
63 other legal entity, including, but not limited to, hospital, medical, or dental service corporations;
64 health maintenance organizations or similar organization providing prepaid health benefits; or
65 individuals entitled to benefits under the provisions of this article.

66 ~~(7)~~ "Plan", unless the context indicates otherwise, means the medical indemnity plan, the
67 managed care plan option, or the group life insurance plan offered by the agency.

68 ~~(8)~~ "Retired employee" means an employee of the state who retired after April 29, 1971,
69 and an employee of the Higher Education Policy Commission, the Council for Community and
70 Technical College Education, a state institution of higher education, or a county board of
71 education who retires on or after April 21, 1972, and all additional eligible employees who retire
72 on or after the effective date of this article, meet the minimum eligibility requirements for their
73 respective state retirement system and whose last employer immediately prior to retirement under
74 the state retirement system is a participating employer in the state retirement system and in the
75 Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the
76 employees who are not covered by a state retirement system, but who are covered by a state-
77 approved or state-contracted retirement program or a system approved by the director, shall, in
78 the case of education employees, meet the minimum eligibility requirements of the state Teachers
79 Retirement System and in all other cases, meet the minimum eligibility requirements of the Public
80 Employees Retirement System and may participate in the Public Employees Insurance Agency
81 as retired employees upon terms as the director sets by rule as authorized in this article.
82 Employers with employees who are, or who are eligible to become, retired employees under this
83 article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant
84 to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-
85 employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide
86 benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but
87 may do so only upon the written certification, under oath, of an authorized officer of the employer
88 that the employer has no employees who are, or who are eligible to become, retired employees
89 and that the employer will defend and hold harmless the Public Employees Insurance Agency
90 from any claim by one of the employer's past, present, or future employees for eligibility to
91 participate in the Public Employees Insurance Agency as a retired employee. As a matter of law,

92 the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits
93 to a retired employee of a nonstate employer which has opted out of the West Virginia other post-
94 employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

**§5-16-4. Public Employees Insurance Agency Finance Board continued; qualifications,
terms and removal of members; quorum; compensation and expenses; termination
date terminated.**

1 ~~(a) The Public Employees Insurance Agency Finance Board is continued and consists of~~
2 ~~the Secretary of the Department of Administration or his or her designee and eight members~~
3 ~~appointed by the Governor, with the advice and consent of the Senate, for terms of four years~~
4 ~~and each may serve until his or her successor is appointed and qualified. Members may be~~
5 ~~reappointed for successive terms. No more than five members, including the Secretary of the~~
6 ~~Department of Administration, may be of the same political party. Effective July 1, 2017, members~~
7 ~~of the board shall satisfy the qualification requirements provided for by subsection (b) of this~~
8 ~~section: *Provided*, That any member serving upon the effective date of this section who does not~~
9 ~~satisfy a requirement of subsection (b) may continue to serve until his or her successor has been~~
10 ~~appointed and qualified. The Governor shall make appointments necessary to satisfy the~~
11 ~~requirements of subsection (b) to staggered terms as determined by the Governor.~~

12 ~~(b) (1) Of the eight members appointed by the Governor with advice and consent of the~~
13 ~~Senate:~~

14 ~~(A) One member shall represent the interests of education employees. The member must~~
15 ~~hold a bachelor's degree, must have obtained teacher certification, must be employed as a~~
16 ~~teacher for a period of at least three years prior to his or her appointment and must remain a~~
17 ~~teacher for the duration of his or her appointment to remain eligible to serve on the board.~~

18 ~~(B) One member shall represent the interests of public employees. The member must be~~
19 ~~employed to perform full or part-time service for wages, salary or remuneration for a public body~~

20 ~~for a period of at least three years prior to his or her appointment and must remain an employee~~
21 ~~of a public body for the duration of his or her appointment to remain eligible to serve on the board.~~

22 ~~(C) One member shall represent the interests of retired employees. The member must~~
23 ~~meet the definition of retired employee as provided in section two of this article.~~

24 ~~(D) One member shall represent the interests of a participating political subdivision. The~~
25 ~~member must have been employed by a political subdivision for a period of at least three years~~
26 ~~prior to his or her appointment and must remain an employee of a political subdivision for the~~
27 ~~duration of his or her appointment to remain eligible to serve on the board. The member may not~~
28 ~~be an elected official.~~

29 ~~(E) Four members must be selected from the public at large, meeting the following~~
30 ~~requirements:~~

31 ~~(i) One member selected from the public at large must generally have knowledge and~~
32 ~~expertise relating to the financing, development or management of employee benefit programs;~~

33 ~~(ii) One member selected from the public at large must have at least three years of~~
34 ~~experience in the insurance benefits business;~~

35 ~~(iii) One member selected from the public at large must be a certified public accountant~~
36 ~~with at least three years of experience with financial management and employee benefits program~~
37 ~~experience; and~~

38 ~~(iv) One member selected from the public at large must be a health care actuary or certified~~
39 ~~public accountant with at least three years of financial experience with the health care~~
40 ~~marketplace.~~

41 ~~(2) No member of the board may be a registered lobbyist.~~

42 ~~(3) All appointments shall be selected to represent the different geographical areas within~~
43 ~~the state and all members shall be residents of West Virginia. No member may be removed from~~
44 ~~office by the Governor except for official misconduct, incompetence, neglect of duty, neglect of~~
45 ~~fiduciary duty or other specific responsibility imposed by this article or gross immorality.~~

46 ~~(c) The Secretary of the Department of Administration shall serve as chair of the finance~~
 47 ~~board, which shall meet at times and places specified by the call of the chair or upon the written~~
 48 ~~request to the chair of at least two members. The Director of the Public Employees Insurance~~
 49 ~~Agency shall serve as staff to the board. Notice of each meeting shall be given in writing to each~~
 50 ~~member by the director at least three days in advance of the meeting. Five members shall~~
 51 ~~constitute a quorum. The board shall pay each member the same compensation and expense~~
 52 ~~reimbursement that is paid to members of the Legislature for their interim duties for each day or~~
 53 ~~portion of a day engaged in the discharge of official duties~~

54 (a) Effective July 1, 2019 the Public Employee Insurance Agency Finance Board is
 55 terminated.

56 ~~(d)~~ (b) Upon termination of the board and notwithstanding any provisions in this article to
 57 the contrary, the director is authorized to assess monthly employee premium contributions and to
 58 change the types and levels of costs to employees only in accordance with this subsection. Any
 59 assessments or changes in costs imposed pursuant to this subsection shall be implemented by
 60 legislative rule proposed by the director for promulgation pursuant to the provisions of §29A-3-1
 61 *et seq.* of this code. Any employee assessments or costs previously authorized by the ~~finance~~
 62 ~~board~~ Public Employees Insurance Agency shall then remain in effect until amended by rule of
 63 the director promulgated pursuant to this subsection.

§5-16-5. Purpose, powers, and duties of the finance board; initial financial plan; financial plan for following year; and annual financial plans.

1 [Repealed]

§5-16-5a. Retiree premium subsidy from Retiree Health Benefit Trust for hires prior to July 1, 2010.

1 [Repealed]

§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan, and group life and

accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.

1 (a) The agency shall establish a group hospital and surgical insurance plan or plans, a
2 group prescription drug insurance plan or plans, a group major medical insurance plan or plans
3 and a group life and accidental death insurance plan or plans for those employees herein made
4 eligible and establish and promulgate rules for the administration of these plans subject to the
5 limitations contained in this article. These plans shall include:

6 (1) Coverages and benefits for x-ray and laboratory services in connection with
7 mammograms when medically appropriate and consistent with current guidelines from the United
8 States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology,
9 whichever is medically appropriate and consistent with the current guidelines from either the
10 United States Preventive Services Task Force or The American College of Obstetricians and
11 Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and
12 consistent with current guidelines from either the United States Preventive Services Task Force
13 or the American College of Obstetricians and Gynecologists, when performed for cancer
14 screening or diagnostic services on a woman age 18 or over;

15 (2) Annual checkups for prostate cancer in men age 50 and over;

16 (3) Annual screening for kidney disease as determined to be medically necessary by a
17 physician using any combination of blood pressure testing, urine albumin or urine protein testing,
18 and serum creatinine testing as recommended by the National Kidney Foundation;

19 (4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed
20 healthcare facility for a mother and her newly born infant for the length of time which the attending
21 physician considers medically necessary for the mother or her newly born child. No plan may
22 deny payment for a mother or her newborn child prior to 48 hours following a vaginal delivery or

23 prior to 96 hours following a caesarean section delivery if the attending physician considers
24 discharge medically inappropriate;

25 (5) For plans which provide coverages for post-delivery care to a mother and her newly
26 born child in the home, coverage for inpatient care following childbirth as provided in §5-16-7(a)(4)
27 of this code if inpatient care is determined to be medically necessary by the attending physician.
28 These plans may include, among other things, medicines, medical equipment, prosthetic
29 appliances, and any other inpatient and outpatient services and expenses considered appropriate
30 and desirable by the agency; and

31 (6) Coverage for treatment of serious mental illness:

32 (A) The coverage does not include custodial care, residential care, or schooling. For
33 purposes of this section, "serious mental illness" means an illness included in the American
34 Psychiatric Association's diagnostic and statistical manual of mental disorders, as periodically
35 revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other
36 psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related
37 disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v)
38 anxiety disorders; and (vi) anorexia and bulimia. With regard to a covered individual who has not
39 yet attained the age of 19 years, "serious mental illness" also includes attention deficit
40 hyperactivity disorder, separation anxiety disorder, and conduct disorder.

41 (B) Notwithstanding any other provision in this section to the contrary, if the agency
42 demonstrates that its total costs for the treatment of mental illness for any plan exceeds two
43 percent of the total costs for such plan in any experience period, then the agency may apply
44 whatever additional cost-containment measures may be necessary in order to maintain costs
45 below two percent of the total costs for the plan for the next experience period. These measures
46 may include, but are not limited to, limitations on inpatient and outpatient benefits.

47 (C) The agency shall not discriminate between medical-surgical benefits and mental
48 health benefits in the administration of its plan. With regard to both medical-surgical and mental

49 health benefits, it may make determinations of medical necessity and appropriateness and it may
50 use recognized healthcare quality and cost management tools including, but not limited to,
51 limitations on inpatient and outpatient benefits, utilization review, implementation of cost-
52 containment measures, preauthorization for certain treatments, setting coverage levels, setting
53 maximum number of visits within certain time periods, using capitated benefit arrangements,
54 using fee-for-service arrangements, using third-party administrators, using provider networks, and
55 using patient cost sharing in the form of copayments, deductibles, and coinsurance.

56 (7) Coverage for general anesthesia for dental procedures and associated outpatient
57 hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals
58 in conjunction with dental care if the covered person is:

59 (A) Seven years of age or younger or is developmentally disabled and is an individual for
60 whom a successful result cannot be expected from dental care provided under local anesthesia
61 because of a physical, intellectual, or other medically compromising condition of the individual
62 and for whom a superior result can be expected from dental care provided under general
63 anesthesia.

64 (B) A child who is 12 years of age or younger with documented phobias or with
65 documented mental illness and with dental needs of such magnitude that treatment should not be
66 delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of
67 teeth, or other increased oral or dental morbidity and for whom a successful result cannot be
68 expected from dental care provided under local anesthesia because of such condition and for
69 whom a superior result can be expected from dental care provided under general anesthesia.

70 (8) (A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for
71 diagnosis, evaluation, and treatment of autism spectrum disorder in individuals ages 18 months
72 to 18 years. To be eligible for coverage and benefits under this subdivision, the individual must
73 be diagnosed with autism spectrum disorder at age eight or younger. ~~Such~~ The plan shall provide
74 coverage for treatments that are medically necessary and ordered or prescribed by a licensed

75 physician or licensed psychologist and in accordance with a treatment plan developed from a
76 comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism
77 spectrum disorder.

78 (B) The coverage shall include, but not be limited to, applied behavior analysis which shall
79 be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied
80 behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per
81 individual for three consecutive years from the date treatment commences. At the conclusion of
82 the third year, coverage for applied behavior analysis required by this subdivision shall be in an
83 amount not to exceed \$2,000 per month, until the individual reaches 18 years of age, as long as
84 the treatment is medically necessary and in accordance with a treatment plan developed by a
85 certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the
86 individual. This subdivision does not limit, replace or affect any obligation to provide services to
87 an individual under the Individuals with Disabilities Education Act, 20 U. S. C. §1400 et seq., as
88 amended from time to time or other publicly funded programs. Nothing in this subdivision requires
89 reimbursement for services provided by public school personnel.

90 (C) The certified behavior analyst shall file progress reports with the agency semiannually.
91 In order for treatment to continue, the agency must receive objective evidence or a clinically
92 supportable statement of expectation that:

93 (i) The individual's condition is improving in response to treatment;

94 (ii) A maximum improvement is yet to be attained; and

95 (iii) There is an expectation that the anticipated improvement is attainable in a reasonable
96 and generally predictable period of time.

97 (D) On or before January 1 each year, the agency shall file an annual report with the Joint
98 Committee on Government and Finance describing its implementation of the coverage provided
99 pursuant to this subdivision. The report shall include, but not be limited to, the number of
100 individuals in the plan utilizing the coverage required by this subdivision, the fiscal and

101 administrative impact of the implementation and any recommendations the agency may have as
102 to changes in law or policy related to the coverage provided under this subdivision. In addition,
103 the agency shall provide such other information as required by the Joint Committee on
104 Government and Finance as it may request.

105 (E) For purposes of this subdivision, the term:

106 (i) "Applied behavior analysis" means the design, implementation and evaluation of
107 environmental modifications using behavioral stimuli and consequences in order to produce
108 socially significant improvement in human behavior and includes the use of direct observation,
109 measurement, and functional analysis of the relationship between environment and behavior.

110 (ii) "Autism spectrum disorder" means any pervasive developmental disorder including
111 autistic disorder, Asperger's Syndrome, Rett Syndrome, childhood disintegrative disorder, or
112 Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and
113 Statistical Manual of Mental Disorders of the American Psychiatric Association.

114 (iii) "Certified behavior analyst" means an individual who is certified by the Behavior
115 Analyst Certification Board or certified by a similar nationally recognized organization.

116 (iv) "Objective evidence" means standardized patient assessment instruments, outcome
117 measurements tools, or measurable assessments of functional outcome. Use of objective
118 measures at the beginning of treatment, during, and after treatment is recommended to quantify
119 progress and support justifications for continued treatment. The tools are not required but their
120 use will enhance the justification for continued treatment.

121 (F) To the extent that the application of this subdivision for autism spectrum disorder
122 causes an increase of at least one percent of actual total costs of coverage for the plan year, the
123 agency may apply additional cost containment measures.

124 (G) To the extent that the provisions of this subdivision require benefits that exceed the
125 essential health benefits specified under section 1302(b) of the Patient Protection and Affordable
126 Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified

127 essential health benefits shall not be required of insurance plans offered by the Public Employees
128 Insurance Agency.

129 (9) For plans that include maternity benefits, coverage for the same maternity benefits for
130 all individuals participating in or receiving coverage under plans that are issued or renewed on or
131 after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require
132 benefits that exceed the essential health benefits specified under section 1302(b) of the Patient
133 Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that
134 exceed the specified essential health benefits shall not be required of a health benefit plan when
135 the plan is offered in this state.

136 (10) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019,
137 and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-
138 based formula for the treatment of severe protein-allergic conditions or impaired absorption of
139 nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the
140 gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder
141 by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et*
142 *seq.* of this code:

143 (i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food
144 proteins;

145 (ii) Severe food protein-induced enterocolitis syndrome;

146 (iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

147 (iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface,
148 function, length, and motility of the gastrointestinal tract (short bowel).

149 (B) The coverage required by §5-16-7(a)(10)(A) of this code shall include medical foods
150 for home use for which a physician has issued a prescription and has declared them to be
151 medically necessary, regardless of methodology of delivery.

152 (C) For purposes of this subdivision, “medically necessary foods” or “medical foods” shall
153 mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*,
154 That these foods are specifically designated and manufactured for the treatment of severe allergic
155 conditions or short bowel.

156 (D) The provisions of this subdivision shall not apply to persons with an intolerance for
157 lactose or soy.

158 (b) The agency shall, with full authorization, make available to each eligible employee, at
159 full cost to the employee, the opportunity to purchase optional group life and accidental death
160 insurance as established under the rules of the agency. In addition, each employee is entitled to
161 have his or her spouse and dependents, as defined by the rules of the agency, included in the
162 optional coverage, at full cost to the employee, for each eligible dependent.

163 (c) The ~~finance board~~ Public Employees Insurance Agency may cause to be separately
164 rated for claims experience purposes:

165 (1) All employees of the State of West Virginia;

166 (2) All teaching and professional employees of state public institutions of higher education
167 and county boards of education;

168 (3) All nonteaching employees of the Higher Education Policy Commission, West Virginia
169 Council for Community and Technical College Education and county boards of education; or

170 (4) Any other categorization which would ensure the stability of the overall program.

171 (d) The agency shall maintain the medical and prescription drug coverage for Medicare-
172 eligible retirees by providing coverage through one of the existing plans or by enrolling the
173 Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the
174 Medicare/Advantage Prescription Drug Plan. If a Medicare-specific plan is no longer available or
175 advantageous for the agency and the retirees, the retirees remain eligible for coverage through
176 the agency.

§5-16-26. Quarterly report.

177 By October 30, 1991, and on or before January 30, April, July, and October of each year
178 thereafter, the director shall prepare, ~~for the approval of the finance board~~ and thereafter present
179 to the Joint Committee on Government and Finance a quarterly report setting forth:

180 (a) A summary of the cost to the plan of health care claims incurred in the preceding
181 calendar quarter;

182 (b) A summary of the funds accrued to the plan by legislative appropriation, employer and
183 employee premiums, or otherwise in the preceding calendar quarter for payment of health care
184 claims;

185 (c) An explanation of all cost containment measures, increased premium rates, and any
186 other plan changes adopted by the director in the preceding calendar quarter and estimated cost
187 savings and enhanced revenues resulting therefrom, and a certification that the director made a
188 good faith effort to develop and implement all reasonable health care cost containment
189 alternatives;

190 (d) Expected claim costs for the next calendar year;

191 (e) Such other information as the director deems appropriate; and

192 (f) Any other financial or other information as may be requested by the Joint Committee
193 on Government and Finance.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-24. Foundation allowance for Public Employees Insurance Fund.

1 (a) The allowance to the Public Employees Insurance Agency for school employees shall
2 be made in accordance with the following: The number of individuals employed by county boards
3 as professional educators pursuant to §18-9A-4 of this code, plus the number of individuals
4 employed by county boards as service personnel pursuant to §18-9A-5 of this code, plus the
5 number of individuals employed by county boards as professional student support personnel

6 pursuant to §18-9A-8 of this code, multiplied by the average premium rate for all county board of
7 education employees established by the Public Employees Insurance Agency ~~Finance Board~~.
8 The average premium rate for all county board of education employees shall be incorporated into
9 each financial plan developed by the ~~Finance Board~~ Public Employees Insurance Agency in
10 accordance with §5-16-5 of this code. The premiums shall include any proportionate share of
11 retirees subsidy established by the ~~Finance Board~~ Public Employees Insurance Agency and the
12 difference, if any, between the previous year's actual premium costs and the previous year's
13 appropriation, if the actual cost was greater than the appropriation. The amount of the allowance
14 provided in this subsection shall be paid directly to the West Virginia Public Employees Insurance
15 Agency. Each county board shall reflect its share of the payment as revenue on its financial
16 statements to offset its expense for the employer annual required contribution, as defined in §5-
17 16D-1 *et seq.* of this code.

18 (b) Notwithstanding any other provision of §5-16D-5 of this code to the contrary, any
19 amount of employer annual required contribution allocated and billed to county boards on or after
20 July 1, 2012, and any amount of the employer annual required contribution allocated and billed to
21 the county boards prior to that date for employees who are employed as professional employees
22 within the limits authorized by §18-9A-4 of this code, employees who are employed as service
23 personnel within the limits authorized by §18-9A-5 of this code, and employees who are employed
24 as professional student support personnel within the limits authorized by §18-9A-8 of this code,
25 shall be charged to the state: *Provided*, That nothing in this subsection requires any specific level
26 of funding by the Legislature in any particular year: *Provided, however*, That charging specified
27 amounts to the state pursuant to this section is not to be construed as creating an employer
28 employee relationship between the State of West Virginia and any employee under the employ of
29 a county board or as creating a liability of the state.

30 (c) County boards are liable for the employer annual required contribution allocated and
31 billed to the county boards on or after July 1, 2012, and any amount of the employer annual

32 required contribution allocated and billed to the county boards prior to that date for individuals
33 who are employed as professional employees above and beyond those authorized by §18-9A-4
34 of this code, individuals who are employed as service personnel above and beyond those
35 authorized by §18-9A-5 of this code, and individuals who are employed as professional student
36 support personnel above and beyond those authorized by §18-9A-8 of this code. For each such
37 employee, the county board shall forward to the Public Employees Insurance Agency an amount
38 equal to the average premium rate established by the ~~finance board~~ agency in accordance with
39 §18-9A-24(a) of this code: *Provided*, That the county board shall pay the actual ~~employer~~ premium
40 costs for any county board employee paid from special revenues, federal or state grants, or
41 sources other than state general revenue or county funds.

42 (d) Prior to July 1, 1995, nothing in this article shall be construed to limit the ability of
43 county boards to use funds appropriated to county boards pursuant to this article to pay employer
44 premiums to the Public Employees Insurance Agency for employees whose positions are funded
45 pursuant to this article. Funds appropriated to county boards pursuant to this article ~~shall~~ may not
46 be used to pay employer premiums for employees of such boards whose positions are not, or will
47 not be within 20 months, funded by funds appropriated pursuant to this article.

NOTE: The purpose of this bill is to repeal the Public Employees Insurance Agency Finance Board effective July 1, 2019, amend code sections that refer to the finance board.

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