

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2810

**FISCAL
NOTE**

BY DELEGATE BATES

[Introduced February 1, 2019; Referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating
2 to modifying the method of calculation of the employer and employee contribution
3 percentages for public employee insurance premiums.

Be it enacted by the Legislature of West Virginia:

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 article is to bring fiscal stability to the
2 Public Employees Insurance Agency through development of annual financial plans and long-
3 range plans designed to meet the agency's estimated total financial requirements, taking into
4 account all revenues projected to be made available to the agency and apportioning necessary
5 costs equitably among participating employers, employees and retired employees and providers
6 of health care services.

7 (b) The finance board shall retain the services of an impartial, professional actuary, with
8 demonstrated experience in analysis of large group health insurance plans, to estimate the total
9 financial requirements of the Public Employees Insurance Agency for each fiscal year and to
10 review and render written professional opinions as to financial plans proposed by the finance
11 board. The actuary shall also assist in the development of alternative financing options and
12 perform any other services requested by the finance board or the director. All reasonable fees
13 and expenses for actuarial services shall be paid by the Public Employees Insurance Agency.
14 The actuary shall submit a projection of the increase in expenditures for employees' health
15 insurance benefits for the next plan year finance board. Any financial plan or modifications to a
16 financial plan approved or proposed by the finance board pursuant to this section shall be
17 submitted to and reviewed by the actuary and may not be finally approved and submitted to the
18 Governor and to the Legislature without the actuary's written professional opinion that the plan
19 may be reasonably expected to generate sufficient revenues to meet all estimated program and

20 administrative costs of the agency, including incurred but unreported claims, for the fiscal year for
21 which the plan is proposed. The actuary's opinion on the financial plan for each fiscal year shall
22 allow for no more than thirty days of accounts payable to be carried over into the next fiscal year.
23 The actuary's opinion for any fiscal year shall not include a requirement for establishment of a
24 reserve fund.

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

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

28 (2) Any necessary cost-containment measures for implementation by the director;

29 (3) The levels of premium costs to participating employers; and

30 (4) The types and levels of cost to participating employees and retired employees.

31 The financial plans may provide for different levels of costs based on the insureds' ability
32 to pay. The finance board may establish different levels of costs to retired employees based upon
33 length of employment with a participating employer, ability to pay or other relevant factors. The
34 financial plans may also include optional alternative benefit plans with alternative types and levels
35 of cost. The finance board may develop policies which encourage the use of West Virginia health
36 care providers.

37 In addition, the finance board may allocate a portion of the premium costs charged to
38 participating employers to subsidize the cost of coverage for participating retired employees, on
39 such terms as the finance board determines are equitable and financially responsible.

40 (d)(1) The finance board shall prepare an annual financial plan for each fiscal year during
41 which the finance board remains in existence. The finance board chairman shall request the
42 actuary to estimate the total financial requirements of the Public Employees Insurance Agency
43 for the fiscal year.

44 (2) The finance board shall prepare a proposed financial plan designed to generate
45 revenues sufficient to meet all estimated program and administrative costs of the Public

46 Employees Insurance Agency for the fiscal year. The proposed financial plan shall allow for no
47 more than thirty days of accounts payable to be carried over into the next fiscal year. Before final
48 adoption of the proposed financial plan, the finance board shall request the actuary to review the
49 plan and to render a written professional opinion stating whether the plan will generate sufficient
50 revenues to meet all estimated program and administrative costs of the Public Employees
51 Insurance Agency for the fiscal year. The actuary's report shall explain the basis of its opinion. If
52 the actuary concludes that the proposed financial plan will not generate sufficient revenues to
53 meet all anticipated costs, then the finance board shall make necessary modifications to the
54 proposed plan to ensure that all actuarially determined financial requirements of the agency will
55 be met.

56 (3) Upon obtaining the actuary's opinion, the finance board shall conduct one or more
57 public hearings in each congressional district to receive public comment on the proposed financial
58 plan, shall review the comments and shall finalize and approve the financial plan.

59 (4) Any financial plan shall be designed to allow 30 days or less of accounts payable to be
60 carried over into the next fiscal year. For each fiscal year, the Governor shall provide his or her
61 estimate of total revenues to the finance board no later than October 15, of the preceding fiscal
62 year: *Provided, That, beginning October 15, 2019 and each year thereafter, the Governor's*
63 *estimate of the total revenues shall include at least 80 percent of the projected growth in*
64 *expenditures for employees health insurance as projected by the actuary: *Provided, however,**
65 *That* for the prospective financial plans required by this section, the Governor shall estimate the
66 revenues available for each fiscal year of the plans based on the estimated percentage of growth
67 in general fund revenues. The finance board shall submit its final, approved financial plan, after
68 obtaining the necessary actuary's opinion and conducting one or more public hearings in each
69 congressional district, to the Governor and to the Legislature no later than January 1, preceding
70 the fiscal year. This estimated available revenue figure shall become final by the 16th day after
71 the first day of commencement of each legislative session. The financial plan for a fiscal year

72 becomes effective and shall be implemented by the director on July 1, of the fiscal year. In addition
73 to each final, approved financial plan required under this section, the finance board shall also
74 simultaneously submit financial statements based on generally accepted accounting practices
75 (GAAP) and the final, approved plan restated on an accrual basis of accounting, which shall
76 include allowances for incurred but not reported claims: *Provided further*. That the financial
77 statements and the accrual-based financial plan restatement shall not affect the approved
78 financial plan.

79 (e) The provisions of Chapter 29A of this code shall not apply to the preparation, approval
80 and implementation of the financial plans required by this section.

81 (f) By January 1, of each year the finance board shall submit to the Governor and the
82 Legislature a prospective financial plan, for a period not to exceed five years, for the programs
83 provided in this article. Factors that the board shall consider include, but are not limited to, the
84 trends for the program and the industry; the medical rate of inflation; utilization patterns; cost of
85 services; and specific information such as average age of employee population, active to retiree
86 ratios, the service delivery system and health status of the population.

87 (g) The prospective financial plans shall be based on the estimated revenues submitted
88 in accordance with subdivision (4), subsection (d) of this section and shall include an average of
89 the projected cost-sharing percentages of premiums and an average of the projected deductibles
90 and copays for the various programs. Beginning in the plan year which commences on July 1,
91 2002, and in each plan year thereafter, until and including the plan year which commences on
92 July 1, 2006, the prospective plans shall include incremental adjustments toward the ultimate level
93 required in this subsection, in the aggregate cost-sharing percentages of premium between
94 employers and employees, including the amounts of any subsidization of retired employee
95 benefits. Effective in the plan year commencing on July 1, 2006, ~~and in each plan year thereafter~~
96 through the plan year commencing on July 1, 2019, the aggregate premium cost-sharing
97 percentages between employers and employees, including the amounts of any subsidization of

98 retired employee benefits, shall be at a level of eighty percent for the employer and twenty percent
99 for employees, except for the employers provided in subsection (d), section eighteen of this article
100 whose premium cost-sharing percentages shall be governed by that subsection. Beginning with
101 the plan year commencing on July 1, 2020 and each year thereafter, the finance board shall not
102 increase in the aggregate the employees' premium and cost-sharing provisions that are in effect
103 for the plan year commencing July 1, 2019, other than adjustments for the projected growth in
104 employees' health insurance expenditures. For the plan year commencing on July 1, 2020 and
105 each year thereafter, the Legislature shall appropriate in general and special revenues at least 80
106 percent of the projected growth in employees' health insurance expenditures as determined by
107 the actuary. *Provided, That* if the Legislature has appropriated more than 80 percent in the
108 previous year, the Legislature can reduce their share of the growth in employees' health insurance
109 expenditures by the percent funded by Legislature over 80 percent for one year. *Provided,*
110 *however,* That the Legislature's share of the growth in employees' health insurance expenditures
111 may not be less than 70 percent. The employees' share of the projected growth in employees'
112 health insurance expenditures as determined by the actuary may not be more than 20 percent.
113 The finance board shall establish the employees' 20 percent share of projected increases in
114 employees' health insurance expenditures through increases in any combination of premiums,
115 reduction in benefits, deductibles, copayments, co-insurances, out-of-pocket maximums or
116 incentives for wellness.

117 (h) After the submission of the initial prospective plan, the board may not increase costs
118 to the participating employers or change the average of the premiums, deductibles and copays
119 for employees, except in the event of a true emergency as provided in this section: *Provided, That*
120 if the board invokes the emergency provisions, the cost shall be borne between the employers
121 and employees in proportion to the cost-sharing ratio for that plan year: *Provided, however, That*
122 for purposes of this section, "emergency" means that the most recent projections demonstrate
123 that plan expenses will exceed plan revenues by more than one percent in any plan year: *Provided*

124 *further*, That the aggregate premium cost-sharing percentages between employers and
125 employees, including the amounts of any subsidization of retired employee benefits, may be
126 offset, in part, by a legislative appropriation for that purpose.

127 ~~(h)~~ (i) The finance board shall meet on at least a quarterly basis to review implementation
128 of its current financial plan in light of the actual experience of the Public Employees Insurance
129 Agency. The board shall review actual costs incurred, any revised cost estimates provided by the
130 actuary, expenditures and any other factors affecting the fiscal stability of the plan and may make
131 any additional modifications to the plan necessary to ensure that the total financial requirements
132 of the agency for the current fiscal year are met. The finance board may not increase the types
133 and levels of cost to employees during its quarterly review except in the event of a true
134 emergency.

135 ~~(i)~~ (j) For any fiscal year in which legislative appropriations differ from the Governor's
136 estimate of general and special revenues available to the agency, the finance board shall, within
137 30 days after passage of the budget bill, make any modifications to the plan necessary to ensure
138 that the total financial requirements of the agency for the current fiscal year are met.

NOTE: The purpose of this bill is to effectuate the recommendations of the Governors Task Force on PEIA recommendation on altering the method of calculation of the 80-20 employer/employee match that is required under current law for calculation of payments for PEIA premiums.

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