

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2130**

By Delegates Rohrbach, Hornby, Chiarelli, and Pritt

[Introduced February 12, 2025; referred

to the Committee on Finance]

1 A BILL to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to  
2 setting the rate the Public Employees Insurance Agency shall pay for services.

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

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

**§5-16-5. Powers and duties of the finance board.**

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

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

19 (c) All financial plans shall establish:

20 (1) The minimum level of reimbursement at 110 percent of the Medicare amount for all  
21 providers: *Provided*, That the plan shall reimburse a West Virginia hospital that provides inpatient

22 medical care to a beneficiary, covered by the state and non-state plans, at a ~~minimum~~ rate of 110  
23 percent of the Medicare diagnosis-related group rate for the admission, or the Medicare per diem,  
24 per day rate applicable to a critical access hospital, as appropriate: *Provided, however,* That the  
25 rates established pursuant to this subdivision do not apply to any Medicare primary retiree health  
26 plan.

27 (2) Any necessary cost-containment measures for implementation by the director;  
28 (3) The levels of premium costs to participating employers; and  
29 (4) The types and levels of cost to participating employees and retired employees.

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

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

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

42 (2) The finance board shall prepare a proposed financial plan designed to generate  
43 revenues sufficient to meet all estimated program and administrative costs of the Public  
44 Employees Insurance Agency for the fiscal year. The proposed financial plan shall allow for no  
45 more than 30 days of accounts payable to be carried over into the next fiscal year. Before final  
46 adoption of the proposed financial plan, the finance board shall request the actuary to review the  
47 plan and to render a written professional opinion stating whether the plan will generate sufficient

48 revenues to meet all estimated program and administrative costs of the Public Employees  
49 Insurance Agency for the fiscal year. The actuary's report shall explain the basis of its opinion. If  
50 the actuary concludes that the proposed financial plan will not generate sufficient revenues to  
51 meet all anticipated costs, then the finance board shall make necessary modifications to the  
52 proposed plan to ensure that all actuarially determined financial requirements of the agency will be  
53 met.

54 (3) Upon obtaining the actuary's opinion, the finance board shall conduct at least two public  
55 hearings in each congressional district to receive public comment on the proposed financial plan,  
56 shall review the comments, and shall finalize and approve the financial plan.

57 (4) For each fiscal year, the Governor shall provide his or her estimate of total revenues to  
58 the finance board no later than October 15 of the preceding fiscal year: *Provided*, That for the  
59 prospective financial plans required by this section, the Governor shall estimate the revenues  
60 available for each fiscal year of the plans based on the estimated percentage of growth in general  
61 fund revenues: *Provided, however*, That the director and finance board may only use revenue  
62 estimates from the Governor as necessary to maintain an actuarially recommended reserve fund  
63 and to maintain premium cost-sharing percentages as required in this article: *Provided, further*,  
64 That the director and finance board may not incorporate revenue sources into the finance board  
65 plan beyond the premium cost-sharing percentages as required in this article. The director shall  
66 provide the number of covered lives for the current fiscal year and a five-year analysis of the costs  
67 for covering paid claims to the finance board no later than October 15 of the preceding year. The  
68 finance board shall submit its final approved financial plan after obtaining the necessary actuary's  
69 opinion, which opinion shall include, but not be limited to, the aggregate premium cost-sharing  
70 percentages between employers and employees, including the amounts of any subsidization of  
71 retired employee benefits, at a level of 80 percent for the employer and 20 percent for employees,  
72 to the Governor and to the Legislature no later than January 1 preceding the fiscal year. The  
73 financial plan for a fiscal year becomes effective and shall be implemented by the director on July 1

74 of the fiscal year. In addition to each final approved financial plan required under this section, the  
75 finance board shall also simultaneously submit financial statements based on generally accepted  
76 accounting practices (GAAP) and the final approved plan restated on an accrual basis of  
77 accounting, which shall include allowances for incurred but not reported claims. The financial  
78 statements and the accrual-based financial plan restatement shall not affect the approved  
79 financial plan.

80 (e) The provisions of §29A-1-1 et seq. of this code shall not apply to the preparation,  
81 approval and implementation of the financial plans required by this section.

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

88 (g) The prospective financial plans shall be based on the estimated revenues submitted in  
89 accordance §5-16-5(d)(4) of this code and shall include an average of the projected cost-sharing  
90 percentages of premiums and an average of the projected deductibles and copays for the various  
91 programs. Each plan year, the aggregate premium cost-sharing percentages between employers  
92 and employees, including the amounts of any subsidization of retired employee benefits, shall be  
93 at a level of 80 percent for the employer and 20 percent for employees, except for the employers  
94 provided in §5-16-18(d) of this code whose premium cost-sharing percentages shall be governed  
95 by that subsection. After the submission of the initial prospective plan, the board may not increase  
96 costs to the participating employers or change the average of the premiums, deductibles, and  
97 copays for employees, except in the event of a true emergency. If the board invokes the  
98 emergency provisions, the cost shall be borne between the employers and employees in  
99 proportion to the cost-sharing ratio for that plan year. For purposes of this section, "emergency"

100 means that the most recent projections demonstrate that plan expenses will exceed plan revenues  
101 by more than one percent in any plan year. The aggregate premium cost-sharing percentages  
102 between employers and employees, including the amounts of any subsidization of retired  
103 employee benefits, may be offset, in part, by a legislative appropriation for that purpose.

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

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

115 (j) In the event the revenues in a given year exceed the expenses, the amount of revenues  
116 in excess of the expenses shall be retained by the Public Employees Insurance Agency to offset  
117 future premium increases.

NOTE: The purpose of this bill is to establish that the Public Employees Insurance Agency  
shall pay 110% of the Medicare rate for services.

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