

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971

ENROLLED

*Committee Substitute*

SENATE BILL NO. 144

(By Mr. *McCort* Mr. President)

PASSED March 13 1971

In Effect From Passage

FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 3-22-71

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 144**

(MR. McCOURT, MR. PRESIDENT, *original sponsor*)

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[Passed March 13, 1971; in effect from passage.]

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AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article sixteen, relating to definitions; creating public employees insurance board as a body corporate; effective date of insurance program; composition of board, powers and duties, expenses; chairman of board, executive secretary; authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, and group life and accidental death insurance plan, rules and regulations for administration of plans, what plans may provide; conditions of insurance plans; authorization to execute contracts for

group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance, limitations, awarding of contracts, reinsurance, certificates for covered employees, discontinuances of contracts; contract provisions for retiring employees, their spouses and dependents; payment of benefits; coverage for employee's dependents; payment of costs by the state, special funds created and duties of treasurer; employee's share, disposition of funds; expense fund; providing criminal penalties; permissive participation in the insurance program and exemptions therefrom; rules and regulations; and providing a severability clause.

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

That chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article sixteen, to read as follows:

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

**§5-16-1. Short title.**

- 1 The short title by which this article may be referred
- 2 to is "West Virginia public employees insurance act."

**§5-16-2. Definitions.**

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

4 (1) "Board" means the public employees insurance  
5 board.

6 (2) "Employee" means any person, including elected  
7 officers, who works regularly as an officer, other than  
8 members of the Legislature, who works regularly full  
9 time as an officer or employee of the state of West Vir-  
10 ginia.

11 (3) "Employer" means the state of West Virginia, its  
12 boards, agencies, commissions, departments, institutions  
13 or spending units; except the following: The national  
14 guard, the board of regents, and political subdivisions.

**§5-16-3. Public employees insurance board created and estab-  
lished; body corporate.**

1 The West Virginia public employees insurance board  
2 is hereby created and established to provide group hos-  
3 pital and surgical insurance, group major medical insur-  
4 ance, and group life and accidental death insurance for

5 all employees of the state as hereinafter provided. The  
6 board shall constitute a body corporate. All business of  
7 the board shall be transacted in the name of the West  
8 Virginia public employees insurance board.

**§5-16-4. Effective date of program.**

1 The board shall meet as soon as possible after the  
2 effective date of this article for the purpose of negotiating  
3 and contracting to provide group insurance for those  
4 employees herein made eligible, such insurance coverage  
5 to be effective July one, one thousand nine hundred  
6 seventy-one, or as soon thereafter as practicable.

**§5-16-5. Composition of board; powers and duties of board  
generally; expenses.**

1 The board shall consist of:

- 2 (a) The auditor of the state by virtue of his office;
- 3 (b) The attorney general by virtue of his office;
- 4 (c) The treasurer of the state by virtue of his office;
- 5 (d) Two members appointed by the governor from the

6 state board of insurance of West Virginia, one from each  
7 political party, whose terms shall be concurrent with that  
8 of the governor.

9 The board shall hold a meeting at least twice each year  
10 and shall designate the time and place. Three board mem-  
11 bers shall constitute a quorum at any meeting of the  
12 board. Each board member shall be entitled to one vote  
13 on each question before the board. A majority of the  
14 quorum present shall be required for a decision by the  
15 board at its meetings. The board shall adopt its own rules  
16 of procedure and shall keep a record of its proceedings.

17 The board shall be responsible for the administration  
18 and management of the public employees insurance sys-  
19 tem as provided for in this article and in connection there-  
20 with shall have the power and authority to make all rules  
21 and regulations necessary to effectuate the provisions of  
22 this article, except as is otherwise specifically provided in  
23 this article.

24 No member of the board shall receive any compensation  
25 for serving as such; however, each member of the board  
26 shall be reimbursed for all reasonable and necessary ex-  
27 penses actually incurred by him in carrying out his duties  
28 as a member of the board.

**§5-16-6. Chairman; executive secretary.**

1 The board shall elect from its own number a chairman  
2 who shall serve for one year, or until a successor is elected.

3 The board shall appoint an executive secretary of the  
4 West Virginia employees insurance board, and said execu-  
5 tive secretary shall be the chief administrative officer of  
6 the board. He shall perform such duties as are required  
7 of him under the provisions of this article and as the  
8 board shall delegate to him from time to time. The com-  
9 pensation of the executive secretary shall be fixed by the  
10 board. The executive secretary shall, with the approval  
11 of the board, employ such administrative, technical and  
12 clerical employees as shall be required for the proper  
13 administration of the insurance program herein provided.

**§5-16-7. Authorization to establish group hospital and surgical  
insurance plan, group major medical insurance plan  
and group life and accidental death insurance plan;  
rules and regulations for administration of plans;  
what plans may provide.**

1 The board is hereby empowered and authorized to  
2 establish a group hospital and surgical insurance plan

3 or plans, a group major medical insurance plan or plans,  
4 and a group life and accidental death insurance plan or  
5 plans for employees of the state, and to establish and  
6 promulgate rules and regulations for the administration  
7 of such plans, subject to the limitations contained in this  
8 article. Such plans may provide for group hospital and  
9 surgical and group major medical insurance against the  
10 financial cost of hospitalization, surgical and medical  
11 treatment and care, and may also include, among other  
12 things, prescribed drugs, medicines, prosthetic appliances,  
13 hospital inpatient and outpatient service benefits, and  
14 medical expenses and indemnifying benefits, and group  
15 life and accidental death insurance, and such other cover-  
16 age and benefits deemed appropriate and desirable by  
17 the board.

**§5-16-8. Conditions of insurance plans.**

1 The insurance plans herein provided for shall be de-  
2 signed by the board:

3 (1) To provide a reasonable relationship between the  
4 hospital, surgical and medical benefits to be included  
5 and the expected hospital, surgical and medical expenses



6 to be incurred by the affected employee, his spouse and  
7 his dependents.

8 (2) To include reasonable controls which may include  
9 deductible and coinsurance provisions applicable to some  
10 or all of the benefits.

11 (3) To prevent unnecessary utilization of the various  
12 hospital, surgical and medical services available.

13 (4) To provide reasonable assurance of stability in  
14 future years for the plans.

15 (5) To provide major medical insurance for said em-  
16 ployees.

17 (6) To provide certain group life and accidental death  
18 insurance for the employees covered under this article.

19 (7) To include provisions for the coordination of bene-  
20 fits payable by the terms of such plans with the bene-  
21 fits to which such employee, or his spouse or his de-  
22 pendants may be entitled by the provisions of any other  
23 group hospital, surgical or medical or group major medi-  
24 cal insurance or any combination thereof.

**§5-16-9. Authorization to execute contracts for group hospi-  
tal and surgical insurance, group major medical**

**insurance, and group life and accidental death insurance; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuances of contracts.**

1 The board is hereby given exclusive authorization to  
2 execute such contract or contracts as are necessary to  
3 carry out the provisions of this article and to provide  
4 the plan or plans of group hospital and surgical insurance  
5 coverage, group major medical insurance coverage, and  
6 group life and accidental death insurance coverage selected in accordance with the provisions of this article,  
7 such contract or contracts to be executed with one or  
8 more agencies, corporations, insurance companies or service organizations licensed to sell group hospital and  
9 surgical insurance, group major medical insurance, and  
10 group life and accidental death insurance in this state.

13 The group life and accidental death insurance herein  
14 provided for shall not exceed an amount equal to the  
15 annual salary of the employee to the nearest one thousand dollar multiples and under no circumstances shall  
16 the amount of the group life and accidental death insurance

18   ance exceed ten thousand dollars for any one employee.  
19   The amount of the group life and accidental death in-  
20   surance to which an employee would otherwise be en-  
21   titled shall be reduced by fifty percent upon such em-  
22   ployee attaining age sixty-five.

23   All of the insurance coverage to be provided for under  
24   this article may be included in one or more similar con-  
25   tracts issued by the same or different carriers.

26   The provisions of article three, chapter five-a of this  
27   code, relating to the division of purchases of the depart-  
28   ment of finance and administration, shall not apply to  
29   any contracts for any insurance coverage authorized to  
30   be executed under the provisions of this article; however,  
31   before entering into any contract for any insurance cover-  
32   age, as herein authorized, said board shall invite com-  
33   petent bids from all qualified and licensed insurance  
34   companies or carriers, who may wish to offer plans for  
35   the insurance coverage desired. The board shall award  
36   such contract or contracts on a competitive basis. In  
37   awarding the contract or contracts the board shall take  
38   into account the experience of the offering agency, cor-

39 poration, insurance companies or service organization in  
40 the group hospital and surgical insurance field, group  
41 major medical insurance field, and group life and acci-  
42 dental death insurance field, and its facilities for the  
43 handling of claims. In evaluating these factors, the board  
44 may employ the services of impartial, professional in-  
45 surance analysts or actuaries or both. Any contract ex-  
46 ecuted by the board with a selected carrier shall be a  
47 contract to govern all eligible employees subject to the  
48 provisions of this article. Nothing contained in this article  
49 shall prohibit any insurance carrier from soliciting em-  
50 ployees covered hereunder to purchase additional hos-  
51 pital and surgical major medical or life and accidental  
52 death insurance coverage.

53 The board may authorize the carrier with whom a  
54 primary contract is executed to reinsure portions of such  
55 contract with other carriers which elect to be a reinsurer  
56 and who are legally qualified to enter into a reinsurance  
57 agreement under the laws of this state.

58 Each employee who is covered under any such contract  
59 or contracts shall receive a certificate setting forth the

60 hospital, surgical or medical benefits to which such em-  
61 ployee, his spouse and his dependents are entitled here-  
62 under, to whom such benefits shall be payable, to whom  
63 claims shall be submitted, and a summary of the pro-  
64 visions of any such contract or contracts as they affect  
65 the employee, his spouse and his dependents.

66 The board may at the end of any contract period dis-  
67 continue any contract or contracts it has executed with  
68 any carrier and replace the same with a contract or  
69 contracts with any other carrier or carriers meeting the  
70 requirements of this article.

**§5-16-10. Contract provisions for group hospital and surgical,  
group major medical, and group life and accidental  
death insurance for retiring employees, their  
spouses and dependents.**

1 Any contract or contracts entered into hereunder may  
2 provide for group hospital and surgical, group major  
3 medical, and group life and accidental death insurance  
4 for retiring employees and their spouses and dependents  
5 as defined by rules and regulations of the board, and on  
6 such terms as the board may deem appropriate.

7 In the event the board provides the above benefits for  
8 retiring employees, their spouses and dependents, the  
9 board shall adopt rules and regulations prescribing the  
10 conditions under which retiring employees may elect to  
11 participate in or withdraw from the plan or plans. Any  
12 contract or contracts herein provided for shall supple-  
13 ment any hospital, surgical, major medical or health  
14 insurance plan administered by the United States de-  
15 partment of health, education and welfare to which the  
16 employee, spouse or dependent may be eligible under  
17 any law or regulation of the United States.

**§5-16-11. To whom benefits paid.**

1 Any benefits payable under any group hospital and  
2 surgical and group major medical plan or plans may  
3 be paid either directly to the attending physician,  
4 hospital, medical group, or other person, firm, association  
5 or corporation furnishing the service upon which the  
6 claim is based, or to the insured upon presentation of  
7 valid bills for such service, subject to such provisions  
8 designed to facilitate payments as may be made by the  
9 board.

**§5-16-12. Coverage for employee's dependents generally.**

1 The board is hereby authorized to provide under any  
2 contract or contracts entered into under the provisions  
3 of this article that the costs of any such group hospital  
4 and surgical insurance, group major medical insurance,  
5 group life and accidental death insurance benefit plan or  
6 plans may be paid by the employer and employee. In  
7 addition, each employee shall be entitled to have his  
8 spouse and dependents, as defined by the rules and regula-  
9 tions of the board, included in any group hospital and  
10 surgical insurance or group major medical insurance  
11 coverage provided upon agreeing to pay the costs of  
12 such coverage for such spouse and dependents. The  
13 board shall adopt rules and regulations governing the  
14 discontinuance and resumption of any employee's cover-  
15 age for his spouse and dependents.

**§5-16-13. Payment of costs by the state as employer; special  
funds created; duties of treasurer with respect  
thereto.**

1 The state as an employer shall pay a sum for all in-  
2 surance coverage provided hereunder as set by the board  
3 not less than twelve dollars per month for each employee

4 electing to receive dependent accident and sickness in-  
 5 surance coverage, and for each employee electing to re-  
 6 ceive individual accident and sickness insurance coverage  
 7 only, a monthly sum not less than fifty percent of the  
 8 monthly sum paid by the state for each employee elect-  
 9 ing to receive dependent coverage.

10 The Legislature shall appropriate to the board annually  
 11 from the general revenue fund such sums as may be  
 12 required to pay the state's proportionate share of the  
 13 premium costs of those spending units operating from the  
 14 general revenue fund, and each spending unit operating  
 15 from special revenue funds, or federal funds, or both,  
 16 shall pay to the board their proportionate share of  
 17 premium costs from their personal services budget.

18 The portion of the premium or cost attributable to all  
 19 insurance coverage provided hereunder and not paid by  
 20 the state shall be paid by the state employee.

21 The state employee's proportionate share of the pre-  
 22 mium or cost shall be withheld or deducted by the state  
 23 from such employee's salary or wages as and when paid  
 24 and such sums shall be forwarded to the board with such  
 25 supporting data as the board may require.



26 All moneys received by the board shall be deposited  
27 in a special fund or funds as are necessary in the state  
28 treasury and the treasurer of the state shall be custodian  
29 of such fund or funds and shall administer such fund  
30 or funds in accordance with the provisions of this article  
31 or as the board may from time to time direct. The  
32 treasurer shall pay all warrants issued by the state auditor  
33 against such fund or funds as the board may direct  
34 in accordance with the provisions of this article.

**§5-16-14. Expense fund.**

1 The Legislature shall annually appropriate such sums  
2 as may be necessary to pay the proportionate share of  
3 the administrative costs for the state as an employer,  
4 and each division, agency, board, commission or depart-  
5 ment of the state which operates out of special revenue  
6 funds or federal funds or both shall pay its proportionate  
7 share of the administrative costs of the insurance plan or  
8 plans authorized under the provisions of this article.

**§5-16-15. No member or employee of the board shall gain  
directly or indirectly from any contract or con-**

**tracts provided for hereunder; providing criminal penalties.**

1 No member or employee of the board or member of  
2 the board of public works shall have any interest directly  
3 or indirectly in the gains or profits arising from any  
4 contract or contracts provided for in this article. Any  
5 such person who directly or indirectly should gain from  
6 any contract or contracts herein provided for shall be  
7 guilty of a misdemeanor, and, upon conviction thereof,  
8 shall be punished by a fine not exceeding one thousand  
9 dollars, or by imprisonment in the county jail for a  
10 period not exceeding one year, or by both, in the discre-  
11 tion of the court.

**§5-16-16. Premissive participation; exemptions.**

1 The provisions of this article shall not be mandatory  
2 upon any employee, and nothing contained in this article  
3 shall be construed so as to compel any employee to enroll  
4 in or subscribe to, any insurance plan authorized by the  
5 provisions of this article.

6 Those employees enrolled in the insurance program  
7 authorized under the provisions of article two-b, chapter

8 twenty-one-a of this code shall not be required to enroll  
9 in or subscribe to an insurance plan or plans authorized  
10 by the provisions of this article, and the employees of  
11 any department which has an existing insurance pro-  
12 gram for its employees to which the government of the  
13 United States contributes any part or all of the premium  
14 or cost thereof may be exempted from the provisions  
15 of this article. Any employee exempted under the pro-  
16 visions of this paragraph may enroll in any insurance  
17 program authorized by the provisions of this article at  
18 any time, to the same extent as any other qualified em-  
19 ployee, but any such employee shall not remain enrolled  
20 in both such programs. The provisions of articles four-  
21 teen, fifteen and sixteen, chapter thirty-three of the code,  
22 relating to group life insurance, accident and sickness  
23 insurance, and group accident and sickness insurance,  
24 shall not be applicable to the provisions of this act when-  
25 ever the provisions of said articles and chapter are in con-  
26 flict with or contrary to any provision set forth herein.

**§5-16-17. Rules and regulations for administration of article.**

1 The board shall promulgate such rules and regulations

2 as may be required for the effective administration of  
3 the provisions of this article. All rules and regulations  
4 promulgated by the board and all hearings held by the  
5 board shall be promulgated and held in accordance with  
6 the provisions of chapter twenty-nine-a of the code.

**§5-16-18. Severability.**

1 If any provision of this article or the application thereof  
2 to any person or circumstance is held unconstitutional  
3 or invalid, such unconstitutionality or invalidity shall not  
4 affect other provisions or applications of the article, and  
5 to this end the provisions of this article are declared to  
6 be severable.

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

*Russell G. Beall*

Chairman Senate Committee

*Charles J. Rutledge*

Chairman House Committee

Originated in the Senate.

To take effect from passage.

*Stewart Keger*

Clerk of the Senate

*C. A. Blankenship*

Clerk of the House of Delegates

*W. Hans McBoult*

President of the Senate

*Lewis N. McManus*

Speaker House of Delegates

The within *disapproved* this the *20th*  
day of *March*, 1971.

*Arch A. Moore Jr.*

Governor



PRESENTED TO THE  
GOVERNOR

Date 3/19/71

Time 2:33 p.m.

RECEIVED

MAR 22 1 33 PM '71

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA