WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 44

(Passed)

PASSED March 13, 1971

In Effect Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 2-22-71
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 to is “West Virginia public employees insurance act.”
§5-16-2. Definitions.

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

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

(2) "Employee" means any person, including elected officers, who works regularly as an officer, other than members of the Legislature, who works regularly full time as an officer or employee of the state of West Virginia.

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

§5-16-3. Public employees insurance board created and established; body corporate.

The West Virginia public employees insurance board is hereby created and established to provide group hospital and surgical insurance, group major medical insurance, and group life and accidental death insurance for
all employees of the state as hereinafter provided. The board shall constitute a body corporate. All business of the board shall be transacted in the name of the West Virginia public employees insurance board.

§5-16-4. Effective date of program.

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

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

The board shall consist of:

(a) The auditor of the state by virtue of his office;
(b) The attorney general by virtue of his office;
(c) The treasurer of the state by virtue of his office;
(d) Two members appointed by the governor from the state board of insurance of West Virginia, one from each political party, whose terms shall be concurrent with that of the governor.
The board shall hold a meeting at least twice each year and shall designate the time and place. Three board members shall constitute a quorum at any meeting of the board. Each board member shall be entitled to one vote on each question before the board. A majority of the quorum present shall be required for a decision by the board at its meetings. The board shall adopt its own rules of procedure and shall keep a record of its proceedings.

The board shall be responsible for the administration and management of the public employees insurance system as provided for in this article and in connection therewith shall have the power and authority to make all rules and regulations necessary to effectuate the provisions of this article, except as is otherwise specifically provided in this article.

No member of the board shall receive any compensation for serving as such; however, each member of the board shall be reimbursed for all reasonable and necessary expenses actually incurred by him in carrying out his duties as a member of the board.
§5-16-6. Chairman; executive secretary.

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

2 The board shall appoint an executive secretary of the West Virginia employees insurance board, and said executive secretary shall be the chief administrative officer of the board. He shall perform such duties as are required of him under the provisions of this article and as the board shall delegate to him from time to time. The compensation of the executive secretary shall be fixed by the board. The executive secretary shall, with the approval of the board, employ such administrative, technical and clerical employees as shall be required for the proper 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 establish a group hospital and surgical insurance plan
or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans for employees of the state, and to establish and promulgate rules and regulations for the administration of such plans, subject to the limitations contained in this article. Such plans may provide for group hospital and surgical and group major medical insurance against the financial cost of hospitalization, surgical and medical treatment and care, and may also include, among other things, prescribed drugs, medicines, prosthetic appliances, hospital inpatient and outpatient service benefits, and medical expenses and indemnifying benefits, and group life and accidental death insurance, and such other coverage and benefits deemed appropriate and desirable by the board.

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

The insurance plans herein provided for shall be designed by the board:

(1) To provide a reasonable relationship between the hospital, surgical and medical benefits to be included and the expected hospital, surgical and medical expenses
(2) To include reasonable controls which may include deductible and coinsurance provisions applicable to some or all of the benefits.

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

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

(5) To provide major medical insurance for said employees.

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

(7) To include provisions for the coordination of benefits payable by the terms of such plans with the benefits to which such employee, or his spouse or his dependents may be entitled by the provisions of any other group hospital, surgical or medical or group major medical insurance or any combination thereof.

§5-16-9. 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.

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

2. The group life and accidental death insurance herein provided for shall not exceed an amount equal to the annual salary of the employee to the nearest one thousand dollar multiples and under no circumstances shall the amount of the group life and accidental death insur-
The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced by fifty percent upon such employee attaining age sixty-five.

All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers.

The provisions of article three, chapter five-a of this code, relating to the division of purchases of the department of finance and administration, shall not apply to any contracts for any insurance coverage authorized to be executed under the provisions of this article; however, before entering into any contract for any insurance coverage, as herein authorized, said board shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired. The board shall award such contract or contracts on a competitive basis. In awarding the contract or contracts the board shall take into account the experience of the offering agency, cor-
poration, insurance companies or service organization in the group hospital and surgical insurance field, group major medical insurance field, and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the board may employ the services of impartial, professional insurance analysts or actuaries or both. Any contract executed by the board with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical major medical or life and accidental death insurance coverage.

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

Each employee who is covered under any such contract or contracts shall receive a certificate setting forth the
hospital, surgical or medical benefits to which such em-
ployee, his spouse and his dependents are entitled here-
der, to whom such benefits shall be payable, to whom
claims shall be submitted, and a summary of the pro-
visions of any such contract or contracts as they affect
the employee, his spouse and his dependents.

The board may at the end of any contract period dis-
continue any contract or contracts it has executed with
any carrier and replace the same with a contract or
contracts with any other carrier or carriers meeting the
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.

Any contract or contracts entered into hereunder may
provide for group hospital and surgical, group major
medical, and group life and accidental death insurance
for retiring employees and their spouses and dependents
as defined by rules and regulations of the board, and on
such terms as the board may deem appropriate.
In the event the board provides the above benefits for retiring employees, their spouses and dependents, the board shall adopt rules and regulations prescribing the conditions under which retiring employees may elect to participate in or withdraw from the plan or plans. Any contract or contracts herein provided for shall supplement any hospital, surgical, major medical or health insurance plan administered by the United States department of health, education and welfare to which the employee, spouse or dependent may be eligible under any law or regulation of the United States.

§5-16-11. To whom benefits paid.

Any benefits payable under any group hospital and surgical and group major medical plan or plans may be paid either directly to the attending physician, hospital, medical group, or other person, firm, association or corporation furnishing the service upon which the claim is based, or to the insured upon presentation of valid bills for such service, subject to such provisions designed to facilitate payments as may be made by the board.
§5-16-12. Coverage for employee's dependents generally.

1 The board is hereby authorized to provide under any contract or contracts entered into under the provisions of this article that the costs of any such group hospital and surgical insurance, group major medical insurance, group life and accidental death insurance benefit plan or plans may be paid by the employer and employee. In addition, each employee shall be entitled to have his spouse and dependents, as defined by the rules and regulations of the board, included in any group hospital and surgical insurance or group major medical insurance coverage provided upon agreeing to pay the costs of such coverage for such spouse and dependents. The board shall adopt rules and regulations governing the discontinuance and resumption of any employee's coverage 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 insurance coverage provided hereunder as set by the board not less than twelve dollars per month for each employee
electing to receive dependent accident and sickness insurance coverage, and for each employee electing to receive individual accident and sickness insurance coverage only, a monthly sum not less than fifty percent of the monthly sum paid by the state for each employee electing to receive dependent coverage.

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

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

The state employee's proportionate share of the premium or cost shall be withheld or deducted by the state from such employee's salary or wages as and when paid and such sums shall be forwarded to the board with such supporting data as the board may require.
All moneys received by the board shall be deposited in a special fund or funds as are necessary in the state treasury and the treasurer of the state shall be custodian of such fund or funds and shall administer such fund or funds in accordance with the provisions of this article or as the board may from time to time direct. The treasurer shall pay all warrants issued by the state auditor against such fund or funds as the board may direct in accordance with the provisions of this article.

§5-16-14. Expense fund.

The Legislature shall annually appropriate such sums as may be necessary to pay the proportionate share of the administrative costs for the state as an employer, and each division, agency, board, commission or department of the state which operates out of special revenue funds or federal funds or both shall pay its proportionate share of the administrative costs of the insurance plan or 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
the board of public works shall have any interest directly
or indirectly in the gains or profits arising from any
contract or contracts provided for in this article. Any
such person who directly or indirectly should gain from
any contract or contracts herein provided for shall be
guilty of a misdemeanor, and, upon conviction thereof,
shall be punished by a fine not exceeding one thousand
dollars, or by imprisonment in the county jail for a
period not exceeding one year, or by both, in the discre-
tion of the court.

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

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

6. Those employees enrolled in the insurance program
authorized under the provisions of article two-b, chapter
twenty-one-a of this code shall not be required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost thereof may be exempted from the provisions of this article. Any employee exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee, but any such employee shall not remain enrolled in both such programs. The provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of the code, relating to group life insurance, accident and sickness insurance, and group accident and sickness insurance, shall not be applicable to the provisions of this act whenever the provisions of said articles and chapter are in conflict with or contrary to any provision set forth herein.

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

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


If any provision of this article or the application thereof
to any person or circumstance is held unconstitutional
or invalid, such unconstitutionality or invalidity shall not
affect other provisions or applications of the article, and
to this end the provisions of this article are declared to
be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

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

[Signature]
Governor