WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 1988

ENROLLED

HOUSE BILL No. 204

Passed June 3, 1988
In Effect July 1, 1988

(By Mr. Del Leary & Del White)
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 204
(By Delegates Leary and White)

[Passed June 3, 1988; in effect July 1, 1988.]

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-a, relating to the creation of a small business health insurance initiative program through joint efforts of public employees insurance agency and legislative task force on uncompensated health care and medicaid expenditures; establishment of multiple small employer insurance pool; “small business” to be defined; bids from insurance companies or carriers for insurance coverage; reports to Legislature; data of department of employment security to be furnished; state antitrust laws to not apply; small business health insurance initiative program termination; and specifying effective dates.

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-a, to read as follows:

ARTICLE 16A. SMALL BUSINESS HEALTH INSURANCE INITIATIVE.

§5-16A-1. Short title.
This article may be cited as the “Small Business Health Insurance Initiative.”

§5-16A-2. Legislative findings.

The Legislature hereby finds and declares as follows:

(a) In excess of three hundred thousand, or nearly sixteen percent, of West Virginians are without health insurance and are not covered by federal or state health care assistance and eighty percent of these persons have incomes below two hundred percent of the federal poverty level and are thus medically indigent;

(b) This problem is worsening as the number of persons so uninsured has increased by thirty thousand, or eleven percent, since the year one thousand nine hundred eighty;

(c) Over seventy-eight thousand, or thirteen percent, of West Virginia workers are without health insurance, and that these workers and their uninsured dependents together are estimated to total over one hundred thirty-two thousand, or more than forty-four percent, of all uninsured persons in the state;

(d) No relief appears available for the uninsured working citizens of this state in the form of adequate health insurance or access to funds to pay therefor and the health and welfare of these uninsured working citizens and their dependents is increasingly threatened;

(e) Studies show that the numbers of such uninsured persons are rising as a result of changing patterns of employment in which jobs are available in ever enlarging numbers in industries involving service and trade and that these are among the least likely industries to provide health insurance for employees;

(f) The system of cost shifting by providers of uncompensated health care to paying health care consumers creates increasing numbers of persons unable to afford health insurance and has resulted in a climate where the financial stability of health care providers is increasingly threatened;

(g) Thousands of uninsured working citizens are
employed in small businesses of fifty or less employees, many of which do not have available to them affordable group health insurance plans for their employees;

(h) The severity of these problems demands a solution, and projects have been developed in other states which do provide affordable, necessary health insurance coverage through the combining of small employee groups into a larger insurance pool;

(i) To address these problems, the public employees insurance agency created by article sixteen of this chapter is the appropriate logical entity to implement a small business health insurance initiative to target the forty-four percent of working West Virginians and their dependents without health insurance, with the cooperation and assistance of the legislative task force on uncompensated health care and medicaid expenditures created by article twenty-nine-c, chapter sixteen of this code.

§5-16A-3. Insurance initiative; purpose; planning; development and implementation.

On the first day of July, one thousand nine hundred eighty-eight, the planning of a small business health insurance initiative in the state shall be commenced by the public employees insurance agency and the resources available to it, with the advice and assistance of the legislative task force on uncompensated health care and medicaid expenditures. The purpose of the project shall be to make available affordable health insurance by pooling in a group for health insurance purposes groups of small businesses to provide for acute and primary health care services to working citizens of the state and their dependents who are without health insurance benefits offered in connection with their employment. The public employees insurance agency shall be responsible for the development and implementation of the program. In so doing, the agency may seek the advice and assistance of the legislative task force on uncompensated health care and medicaid expenditures.

§5-16A-4. Funding and payment procedures separated from public employees insurance agency
appropriations.

Funds received through employer-employee premiums of participating small businesses or from any entity granting funds for the purposes of this program shall be set aside and kept at all times separate and apart from any and all funds appropriated or remitted heretofore or in the future to and for the public employees insurance agency for purposes enumerated in article sixteen, chapter five of this code. No such funds shall be utilized to supplement any health care insurance offered through the initiative established under the provisions of this article. No benefit or program entitlement offered to those eligible under the provisions of said article sixteen may be affected by the initiative established in this article, and initiative procedures and mechanisms for processing of claims shall be kept separate and apart from those established pursuant to said article sixteen.

§5-16A-5. Rules and regulations; contents; creation of small business insurance pool.

The public employees insurance agency shall develop and implement the program through rules and regulations promulgated in accordance with the provisions of chapter twenty-nine-a of this code. The legislative task force on uncompensated health care and medicaid expenditures shall share with the public employees insurance agency any and all pertinent data, studies, reports, analyses, research, summaries, information collected, filed or developed now or in the future in order to effect the development and implementation of the program contemplated herein. Upon request, in the planning, development and implementation of the program the insurance commissioner shall cooperate with advice and assistance.

The rules and regulations shall provide for the establishment of a multiple small employer insurance pool for the provision of basic acute and primary health care insurance coverage with measurable cost containment provisions to employers and employees of small businesses in the state and their respective dependents;
shall specify that those eligible for participation in the program be small businesses in the state with fifty or fewer employees; shall develop a definition for “small business” which definition shall include nonprofit organizations and nonprofit corporations having fifty or fewer employees; shall permit bids from qualified and licensed insurance companies or carriers, who may wish to offer plans or reinsurance for the insurance coverage desired; shall address incentives for small business participation in the program, and a variety of effective cost controls; shall provide for an appropriate application form for participation and procedures for application; shall ensure accurate and appropriate marketing of the health insurance coverage to small businesses throughout the state; and shall establish criteria for monitoring the effectiveness of the multiple small employer insurance pool.

§5-16A-6. Legislative report.

The public employees insurance agency, with the advice and assistance of the legislative task force on uncompensated health care and medicaid expenditures, shall cooperate to prepare and submit reports to the Legislature before it convenes in the years one thousand nine hundred eighty-nine, one thousand nine hundred ninety, one thousand nine hundred ninety-one and one thousand nine hundred ninety-two, with studies, findings, conclusions and recommendations, including any recommendations for legislation, all relating to the purpose and effect of the small business health insurance initiative created herein. Said report shall be in addition to any report prepared by the legislative task force on uncompensated health care and medicaid expenditures pursuant to the provisions of article twenty-nine-c, chapter sixteen of this code.

§5-16A-7. Availability of data of department of employment security.

In furtherance of the purposes of this article, the department of employment security shall, notwithstanding the provisions of section eleven, article ten, chapter twenty-one-a of this code, cooperate to make available
to the public employees insurance agency and the legislative task force on uncompensated health care and medicaid expenditures such information as they may request for purposes consistent with this article to identify and facilitate contact with small business employers who may be eligible for participation in the initiative. The provisions of this section shall be liberally construed by the department of employment security in order to effectuate the development of the small business insurance initiative.

Information thus obtained by the public employees insurance agency and the legislative task force on uncompensated health care and medicaid expenditures shall be maintained as strictly confidential and shall be exempt from disclosure to the public.

§5-16A-8. Exemption from state antitrust laws.

The small business health insurance initiative and those responsible for developing and implementing it under the provisions of this article are exempted from the provisions of section five, article eighteen, chapter forty-seven of this code.

§5-16A-9. Termination of small business health insurance initiative program.

The small business health insurance initiative program shall be terminated pursuant to the provisions of article ten, chapter four of this code on the first day of July, one thousand nine hundred ninety-two, unless continued or reestablished pursuant to the provisions of that article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.


Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the day of June, 1988.

Governor