

4222

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4222

(By Mr. *Speaker, Mr. Chambliss, + Del. Swann*
[By request of the Executive])

— ● —

Passed *March 4,* 1988

In Effect *From* Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4222

(By MR. SPEAKER, MR. CHAMBERS, and DELEGATE SWANN)
[By request of the Executive]

[Passed March 4, 1988; in effect from passage.]

AN ACT to amend and reenact article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the "West Virginia Public Employees Insurance Act" and insurance program, and declaring the same to be for a public purpose; providing definitions; specifying termination of public employees insurance board on specified date and replacement thereof by public employees insurance agency, a new entity, and director thereof as primary administrator; providing for sunset of agency; creating public employees insurance advisory board to make recommendations for operation and administration to the director; appointments, qualifications and composition in respect of or applicable to director and advisory board; required civil service coverage of agency employees, but not of director and one secretary; authorization to establish plan or plans and program of insurance coverages; procedures required for operation and administration; insurance program conditions, including reasonable and customary expenses, cash incentive plans, "wellness" program and limiting spouse and dependent coverage to excess coverage in certain cases; powers for contract execution and enforcement;

prohibition in respect of fraud or misrepresentations and civil penalties therefor; extended insurance coverage after retirement; eligibility therefor including certain higher education employees, limitation for new employees and alternative benefits in respect thereof; payments of deductibles by employees required after specified date, authority of director to adjust amounts with certain limitations; employee percentage payment for x-rays and laboratory outpatient services after specified date; optional dental, optical, mental health, disability and prepaid retirement plan to be made available by director to employees, with employee to bear full premium cost thereof with separate funds established and required; preferred provider plan or system to be established in reduction of costs, with director authorized to renegotiate contracts in respect thereof; noncoverage of preexisting conditions of injury, sickness, pregnancy or other health condition within specified period prior to effective coverage, exceptions; data and budget employer line item requirement; employer withdrawal payments required; new employee contribution requirement on percentage basis with limitations on and after specified date; designation of funds and authorization to accept moneys; director authorized to impose employee premium subject to maximum amount by rulemaking without emergency rules; prohibition against direct or indirect benefitting from contracts by specified officials, members, or employees, with criminal penalties and exception for certain contracts; participation in insurance program not mandatory, with exceptions; members of Legislature eligible for coverage upon payment of full coverage costs; eligible employees specified; overcharge discovery awards to employees; requirements of employers in respect of notices to employees; general exemption from administrative procedures act; reserved fund for budget excess; required quarterly report to joint committee on government and finance; and severability section.

Be it enacted by the Legislature of West Virginia:

That article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended and reenacted to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSU-
RANCE ACT.**

§5-16-1. Short title; legislative intent.

1 The short title by which this article may be referred
2 to is "West Virginia Public Employees Insurance Act"
3 and it is the express intent of the Legislature to
4 encourage and promote a uniform partnership relation
5 between all employers and employees participating in
6 the insurance plan or plans formulated under the
7 provisions of this article and constituting the insurance
8 program, and to hereby declare such insurance program
9 to be for a public purpose.

§5-16-2. Definitions.

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

4 (1) "Public employees insurance board" means the
5 existing board created by this article, and on and after
6 the first day of July, one thousand nine hundred eighty-
7 eight, whenever the term "public employees insurance
8 board" shall appear in this article, the same shall mean
9 the director of the public employees insurance agency
10 unless a different meaning is clearly indicated by the
11 context.

12 (2) "Agency" means the public employees insurance
13 agency created by this article, after specified date, in
14 replacement of the board.

15 (3) "Employee" means any person, including elected
16 officers, who works regularly full time in the service of
17 the state of West Virginia and, for the purpose of this
18 article only, the term "employee" shall also mean any
19 person, including elected officers, who works regularly

20 full time in the service of a county board of education;
21 a county, city or town in the state; any separate
22 corporation or instrumentality established by one or
23 more counties, cities or towns, as permitted by law; any
24 corporation or instrumentality supported in most part
25 by counties, cities or towns; any public corporation
26 charged by law with the performance of a governmental
27 function and whose jurisdiction is coextensive with one
28 or more counties, cities or towns; any agency or
29 organization established by, or approved by the depart-
30 ment of mental health for the provision of community
31 health or mental retardation services, and which is
32 supported in part by state, county or municipal funds;
33 any person who works regularly full time in the service
34 of the West Virginia board of regents; and any person
35 who works regularly full time in the service of a
36 combined city-county health department created pursu-
37 ant to article two, chapter sixteen of the code. Any
38 matters of doubt as to who is an employee within the
39 meaning of this article shall be decided by the public
40 employees insurance board.

41 (4) "Retired employee" shall mean an employee of the
42 state who retired after the twenty-ninth day of April,
43 one thousand nine hundred seventy-one, and an em-
44 ployee of the West Virginia board of regents and a
45 county board of education who retires on or after the
46 twenty-first day of April, one thousand nine hundred
47 seventy-two, and all additional eligible employees who
48 retire on or after the effective date of this article and
49 meet the minimum eligibility requirements for their
50 respective state retirement system: *Provided*, That for
51 the purposes of this article such employees who are not
52 covered by a state retirement system shall, in the case
53 of education employees, meet the minimum eligibility
54 requirements of the state teachers retirement system,
55 and in all other cases, meet the minimum eligibility
56 requirements of the public employees retirement
57 system.

58 (5) "Employer" means the state of West Virginia, its
59 boards, agencies, commissions, departments, institutions
60 or spending units; a county board of education; a county,

61 city or town in the state; any separate corporation or
62 instrumentality established by one or more counties,
63 cities or towns, as permitted by law; any corporation or
64 instrumentality supported in most part by counties,
65 cities or towns; any public corporation charged by law
66 with the performance of a governmental function and
67 whose jurisdiction is coextensive with one or more
68 counties, cities or towns; any agency or organization
69 established by, or approved by the department of mental
70 health for the provision of community health or mental
71 retardation services, and which is supported in part by
72 state, county or municipal funds; and a combined city-
73 county health department created pursuant to article
74 two, chapter sixteen of the code. Any matters of doubt
75 as to who is an "employer" within the meaning of this
76 article shall be decided by the public employees
77 insurance board. The term "employer" shall not include
78 within its meaning the national guard.

79 (6) "Advisory board" means the public employees
80 advisory board created by this article, after specified
81 date.

82 (7) "Director" means the director of the public
83 employees insurance agency, created by this article
84 after a specified date.

**§5-16-3. Public employees insurance board created and
established; body corporate; board to termi-
nate on specified date.**

1 The West Virginia public employees insurance board
2 is hereby created and established to provide group
3 hospital and surgical insurance, group major medical
4 insurance, and group life and accidental death insu-
5 rance for all employees in the manner as hereinafter
6 provided. The public employees insurance board shall
7 constitute a body corporate. All business of the public
8 employees insurance board shall be transacted in the
9 name of the West Virginia public employees insurance
10 board.

11 After having conducted a performance audit through
12 its joint committee on government operations, pursuant
13 to section nine, article ten, chapter four of this code, the

14 Legislature hereby finds and declares that the public
15 employees insurance board should be continued and
16 reestablished. Accordingly, notwithstanding the provi-
17 sions of section four, article ten, chapter four of this
18 code, the public employees insurance board shall
19 continue to exist until the first day of July, one thousand
20 nine hundred eighty-eight.

**§5-16-3a. Public employees insurance advisory board
created and established.**

1 On and after first day of July, one thousand nine
2 hundred eighty-eight, the public employees insurance
3 board is hereby abolished and the public employees
4 advisory board is hereby created and established to
5 provide advice and make recommendations to the
6 director concerning group hospital and surgical insu-
7 rance, group major medical insurance, and group life
8 and accidental death insurance for all employees in the
9 manner as hereinafter provided. All business of the
10 advisory board shall be transacted in the name of West
11 Virginia public employees insurance advisory board.

12 Notwithstanding any other provisions of this article,
13 the public employees insurance board shall continue to
14 exist until first day of July, one thousand nine hundred
15 eighty-eight.

**§5-16-3b. Public employees insurance agency created
and established after specified date, and in
replacement of public employees insurance
board; appointment, qualification, compen-
sation, and duties of director of agency;
employees; and civil service coverage; direc-
tor vested after specified date with powers
of public employees insurance board; expi-
ration of agency.**

1 (a) On and after first day of July, one thousand nine
2 hundred eighty-eight, there is hereby created a state
3 agency known as the "Public Employees Insurance
4 Agency," which agency shall consist of the director, the
5 advisory board and such employees as may be autho-
6 rized by law. The director shall be appointed by the
7 governor, with the advice and consent of the Senate. He

8 or she shall serve at the will and pleasure of the
9 governor, unless earlier removed from office for cause
10 as provided by law. The director shall have at least three
11 years experience in health insurance administration
12 prior to appointment as director. The director shall
13 receive an annual salary established by the governor not
14 to exceed fifty-five thousand dollars and actual expenses
15 incurred in the performance of official business. The
16 director shall employ such administrative, technical and
17 clerical employees as shall be required for the proper
18 administration of the insurance programs herein
19 provided. The director shall perform such duties as are
20 required of him under the provisions of this article and
21 shall be the chief administrative officer of the public
22 employees insurance agency.

23 (b) All positions in the agency, except for the director
24 and his or her personal secretary, shall be included in
25 the classified service of the civil service system pursuant
26 to article six, chapter twenty-nine of this code. Any
27 person required to be included in the classified service
28 by the provisions of this subsection who was employed
29 in any of the positions included herein on or after the
30 effective date of this article, shall not be required to take
31 and pass qualifying or competitive examinations upon
32 or as a condition to being added to the classified service:
33 *Provided*, That no person required to be included in the
34 classified service by the provisions of this section who
35 was employed in any of the positions included herein as
36 of the effective date of this section, shall be thereafter
37 severed, removed or terminated in his or her employ-
38 ment prior to his or her entry into the classified service
39 except for cause as if such person had been in the
40 classified service when severed, removed or terminated.

41 (c) On and after the first day of July, one thousand
42 nine hundred eighty-eight, the director shall be vested
43 with and have the authority previously granted herein
44 to the public employees insurance board.

45 (d) Notwithstanding the provisions of section four,
46 article ten, chapter four of this code, the public
47 employees insurance agency shall continue to exist until
48 the first day of July, one thousand nine hundred ninety-

49 two.

§5-16-4. First meeting of public employees insurance board; effective date of program.

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

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

1 The public employees insurance board shall consist of:

- 2 (a) The auditor of the state by virtue of his office;
3 (b) The workers' compensation commissioner;
4 (c) The treasurer of the state by virtue of his office.

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

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

25 No member of the public employees insurance board
26 shall receive any compensation for serving as such;
27 however, each member of the public employees insu-
28 rance board shall be reimbursed for all reasonable and
29 necessary expenses actually incurred by him in carrying
30 out his duties as a member of the public employees
31 insurance board.

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

1 The advisory board shall consist of nine members who
2 are citizens of the United States and residents of this
3 State as follows:

4 (a) One representative of the West Virginia medical
5 association, appointed by the governor, with the advice
6 and consent of the Senate;

7 (b) One representative of the West Virginia hospital
8 association, appointed by the governor, with the advice
9 and consent of the Senate;

10 (c) Five members covered by the public employees
11 insurance plan and program, appointed by the governor,
12 with the advice and consent of the Senate, and selected
13 so as to represent as broadly as possible all elements of
14 the employees covered by the plan: *Provided*, That such
15 members shall not be (1) employees of or contractors to
16 any health care facility; (2) licensed health care
17 professionals; (3) members of the immediate family of
18 licensed health care professionals; or (4) an employee of
19 or contractor to any such licensed health care
20 professionals;

21 (d) The insurance commissioner or his or her
22 designee;

23 (e) One representative of the West Virginia health
24 care cost review authority, appointed by the governor,
25 with the advice and consent of the Senate.

26 No more than five of such nine members shall be of
27 the same political party and each member shall be from
28 a different state senatorial district.

29 Of the members first appointed by the governor to the

30 advisory board, the member who is the representative
31 of the West Virginia medical association shall be
32 appointed for a term of two years; the member who is
33 the representative of the West Virginia hospital associ-
34 ation shall be appointed for a term of four years; the
35 member who is the representative of the West Virginia
36 health care cost review authority shall be appointed for
37 a term of three years; and the five members who are
38 participants in the public employees insurance plan
39 shall be appointed to terms of one, two, three, four and
40 five years respectively. Subsequent appointed members
41 shall be appointed to five-year terms except for
42 members appointed to fill vacancies who shall serve for
43 the remainder of the vacant term. Members of the
44 advisory board are eligible for reappointment upon the
45 expiration of their terms but may not serve more than
46 two full five-year terms consecutively. Members' terms
47 shall commence on the first day of September of the
48 year of appointment and end on the thirty-first day of
49 August in the year in which the term expires. The term
50 of the members first appointed shall commence on the
51 first day of September, one thousand nine hundred
52 eighty-eight, with the governor to have made the
53 appointments of such members by such date.

54 The advisory board shall hold a meeting at least twice
55 each year and shall designate the time and place of such
56 meeting. Five advisory board members shall constitute
57 a quorum at any meeting of the advisory board. Each
58 advisory board member shall be entitled to one vote on
59 each question before the advisory board. A majority of
60 the quorum present shall be required for a decision by
61 the advisory board at its meetings. The advisory board
62 shall keep a record of its proceedings.

63 The advisory board shall be responsible for advising
64 and making recommendations to the director regarding
65 the administration and management of the public
66 employees insurance agency as provided for in this
67 article. Under no circumstances, however, will the
68 decisions, advice or recommendations of the advisory
69 board be controlling or binding on the director.

70 No member of the advisory board shall receive any

71 compensation for serving as such; however, each
72 member of the advisory board shall be reimbursed for
73 all reasonable and necessary expenses actually incurred
74 by him in carrying out his duties as a member of the
75 advisory board.

**§5-16-6. Chairman of public employees insurance board;
executive secretary.**

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

4 The public employees insurance board shall appoint
5 an executive secretary of the West Virginia public
6 employees insurance board, and said executive secretary
7 shall be the chief administrative officer of the public
8 employees insurance board. He shall perform such
9 duties as are required of him under the provisions of this
10 article and as the public employees insurance board
11 shall delegate to him from time to time. The compen-
12 sation of the executive secretary shall be fixed by the
13 public employees insurance board. The executive
14 secretary shall, with the approval of the public em-
15 ployees insurance board, employ such administrative,
16 technical and clerical employees as shall be required for
17 the proper administration of the insurance program
18 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; optional plans; separate rating for
claims experience purposes and annual
review.**

1 The public employees insurance board is hereby
2 empowered and authorized to establish a group hospital
3 and surgical insurance plan or plans, a group major
4 medical insurance plan or plans, and a group life and
5 accidental death insurance plan or plans for those
6 employees herein made eligible, and to establish and
7 promulgate rules and regulations for the administration

8 of such plans, subject to the limitations contained in this
9 article. Such plans may provide for group hospital and
10 surgical and group major medical insurance against the
11 financial cost of hospitalization, surgical and medical
12 treatment and care, and may also include, among other
13 things, prescribed drugs, medicines, prosthetic applian-
14 ces, hospital inpatient and outpatient service benefits,
15 and medical expenses and indemnifying benefits, and
16 group life and accidental death insurance, and such
17 other coverage and benefits deemed appropriate and
18 desirable by the public employees insurance board.

19 The public employees insurance board shall make
20 available to each employee herein made eligible, at full
21 cost to the employee, the opportunity to purchase
22 optional group life and accidental death insurance in an
23 amount not to exceed fifty thousand dollars for life
24 insurance and fifty thousand dollars for accidental death
25 insurance as established under the rules and regulations
26 of the public employees insurance board. In addition,
27 each employee shall be entitled to have his spouse and
28 dependents, as defined by the rules and regulations of
29 the public employees insurance board, included in such
30 optional coverage, at full cost to the employee, in an
31 amount not to exceed five thousand dollars for life
32 insurance and five thousand dollars for accidental death
33 insurance for the spouse and not to exceed two thousand
34 dollars in life insurance and two thousand dollars in
35 accidental death insurance for each eligible dependent;
36 and with full authorization hereby to the public
37 employees insurance board to make the same available
38 and provide such opportunity of purchase to each
39 employee.

40 The public employees insurance board may cause to
41 be separately rated for claims experience purposes (1)
42 all employees of the state of West Virginia, (2) all
43 teaching and professional employees of the West
44 Virginia board of regents and county boards of educa-
45 tion, (3) all nonteaching employees of the West Virginia
46 board of regents and county boards of education, or (4)
47 any other categorization which would ensure the
48 stability of the overall program.

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

1 The insurance plans herein provided for shall be
2 designed by the public employees insurance board:

3 (1) To provide a reasonable relationship between the
4 hospital, surgical and medical benefits to be included
5 and the expected reasonable and customary hospital,
6 surgical and medical expenses as established by the
7 director to be incurred by the affected employee, his
8 spouse and his dependents. The establishment of
9 reasonable and customary expenses by the public
10 employees insurance board pursuant to the preceding
11 sentence is not subject to the state administrative
12 procedures act in chapter twenty-nine-a of this code.

13 (2) To include reasonable controls which may include
14 deductible and coinsurance provisions applicable to
15 some or all of the benefits, and shall include other
16 provisions including, but not limited to, copayments,
17 preadmission certification, case management programs,
18 statewide preferred provider arrangements and pres-
19 cription drug programs.

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

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

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

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

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

34 (8) To provide a cash incentive plan for employees,
35 spouses, and dependents by the thirty-first day of
36 December, one thousand nine hundred eighty-eight, to
37 increase utilization of, and to encourage the use of, lower

38 cost alternative health care facilities, health care
39 providers and generic drugs. Such plan shall be
40 reviewed annually by the director and the advisory
41 board.

42 (9) To provide a "wellness" program which will
43 include, but not be limited to, an aggressive campaign
44 against tobacco, alcohol and chemical abuse and an
45 educational program to encourage proper diet and
46 exercise. In establishing a "wellness" program, the
47 division of vocational rehabilitation shall cooperate with
48 the public employees insurance board in establishing a
49 statewide wellness program and with such division of
50 vocational rehabilitation to contact county boards of
51 education for the use of facilities, equipment or any
52 service related to such purpose, at the request of the
53 director, under the authority hereby granted to contract
54 therefor. Boards of education shall be limited to
55 charging only the cost of janitorial service and increased
56 utilities for the use of the gymnasium and related
57 equipment. The cost of the exercise program shall be
58 paid by county boards of education, the public em-
59 ployees insurance board, the public employees insurance
60 agency, or participating employees, their spouses or
61 dependents. All exercise programs shall be made
62 available to all employees, their spouses or dependents
63 and shall not be limited to employees of county boards
64 of education.

65 (10) To provide a program, to be administered by the
66 director, for a patient audit plan with reimbursement
67 up to a maximum of one thousand dollars annually, to
68 employees for discovery of health care provider or
69 hospital overcharges when the affected employee brings
70 such overcharge to the attention of the plan. The
71 hospital or health care provider shall certify to the
72 director that it has provided, prior to or simultaneously
73 with the submission of the statement of charges for
74 payments, an itemized statement of the charges to the
75 employee participant for which payment is requested of
76 the plan.

77 (11) To require that all employers give written notice
78 to each covered employee prior to institution of any

79 changes in benefits to employees, and to include
80 appropriate penalty for any employer not providing the
81 required information to any employee.

**§5-16-9. Authorization to execute contracts for group
hospital and surgical insurance, group major
medical insurance, and group life and accid-
ental death insurance; limitations; awarding
of contracts; reinsurance; certificates for
covered employees; discontinuance of
contracts.**

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

14 The group life and accidental death insurance herein
15 provided for shall be in the amount of ten thousand
16 dollars for every employee. The amount of the group life
17 and accidental death insurance to which an employee
18 would otherwise be entitled shall be reduced to five
19 thousand dollars upon such employee attaining age
20 sixty-five.

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

24 The provisions of article three, chapter five-a of this
25 code, relating to the division of purchases of the
26 department of finance and administration, shall not
27 apply to any contracts for any insurance coverage
28 authorized to be executed under the provisions of this
29 article; however, before entering into any contract for
30 any insurance coverage, as herein authorized, said

31 public employees insurance board shall invite competent
32 bids from all qualified and licensed insurance compan-
33 ies or carriers, who may wish to offer plans for the
34 insurance coverage desired. The public employees
35 insurance board shall deal directly with insurers in
36 presenting specifications and receiving quotations for
37 bid purposes. No commission or finder's fee, or any
38 combination thereof, shall be paid to any individual or
39 agent; but this shall not preclude an underwriting
40 insurance company or companies, at their own expense,
41 from appointing a licensed resident agent, within this
42 state, to service the companies' contracts awarded under
43 the provisions of this article. Commissions reasonably
44 related to actual service rendered for such agent or
45 agents may be paid by the underwriting company or
46 companies: *Provided*, That in no event shall payment be
47 made to any agent or agents when no actual services are
48 rendered or performed. The public employees insurance
49 board shall award such contract or contracts on a
50 competitive basis. In awarding the contract or contracts
51 the public employees insurance board shall take into
52 account the experience of the offering agency, corpora-
53 tion, insurance company or service organization in the
54 group hospital and surgical insurance field, group major
55 medical insurance field, and group life and accidental
56 death insurance field, and its facilities for the handling
57 of claims. In evaluating these factors, the public
58 employees insurance board may employ the services of
59 impartial, professional insurance analysts or actuaries
60 or both. Any contract executed by the public employees
61 insurance board with a selected carrier shall be a
62 contract to govern all eligible employees subject to the
63 provisions of this article. Nothing contained in this
64 article shall prohibit any insurance carrier from
65 soliciting employees covered hereunder to purchase
66 additional hospital and surgical, major medical or life
67 and accidental death insurance coverage.

68 The public employees insurance board may authorize
69 the carrier with whom a primary contract is executed
70 to reinsure portions of such contract with other carriers
71 which elect to be a reinsurer and who are legally
72 qualified to enter into a reinsurance agreement under

73 the laws of this state.

74 Each employee who is covered under any such
75 contract or contracts shall receive a certificate setting
76 forth a fee schedule of the hospital, surgical or medical
77 benefits to which such employee, his spouse and his
78 dependents are entitled hereunder, to whom such
79 benefits shall be payable, to whom claims shall be
80 submitted, and a summary of the provisions of any such
81 contract or contracts as they affect the employee, his
82 spouse and his dependents.

83 The public employees insurance board may at the end
84 of any contract period discontinue any contract or
85 contracts it has executed with any carrier and replace
86 the same with a contract or contracts with any other
87 carrier or carriers meeting the requirements of this
88 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 public
6 employees insurance board, and on such terms as the
7 public employees insurance board may deem
8 appropriate.

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

20 under 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 be
3 paid either directly to the attending physician, hospital,
4 medical group, or other person, firm, association or
5 corporation furnishing the service upon which the claim
6 is based, or to the insured upon presentation of valid
7 bills for such service, subject to such provisions designed
8 to facilitate payments as may be made by the public
9 employees insurance board.

**§5-16-11a. Misrepresentation by employee or provider;
penalty.**

1 Any person who shall knowingly secure or attempt to
2 secure benefits payable under this article to which the
3 person is not entitled, or who shall knowingly secure or
4 attempt to secure greater benefits than those to which
5 the person is entitled, by willfully misrepresenting the
6 presence or extent of benefits to which the person is
7 entitled under a collateral insurance source, or by
8 willfully misrepresenting any material fact relating to
9 any other information requested by the director or
10 public employees insurance board, or by willfully
11 overcharging for services provided, or by willfully
12 misrepresenting the diagnosis or nature of the service
13 provided, may be found to be overpaid and shall be
14 civilly liable for any overpayment. In addition to the
15 civil remedy provided herein, the director, or public
16 employees insurance board prior to first day of July, one
17 thousand nine hundred eighty-eight, shall withhold
18 payment of any benefits due to that person until any
19 overpayment has been recovered or may directly set off,
20 after holding internal administrative proceedings to
21 assure due process, any such overcharges or improperly
22 derived payment against benefits due such person
23 hereunder. Nothing in this section shall be construed to
24 limit any other remedy or civil or criminal penalty
25 provided by law.

**§5-16-12. Payment of costs by employer and employee;
coverage for employee's spouse and depend-**

ents generally; short term continuance of coverage for involuntary employee termination; extended insurance coverage for retired employees with accrued annual leave and sick leave; increased retirement benefits for retired employees with accrued annual and sick leave; additional eligible retired employees; option for health insurance coverage without life insurance coverage made available to retirees; health insurance for surviving dependents of deceased employees.

1 (a) The public employees insurance board is hereby
2 authorized to provide under any contract or contracts
3 entered into under the provisions of this article that the
4 costs of any such group hospital and surgical insurance,
5 group major medical insurance, group life and acciden-
6 tal death insurance benefit plan or plans may be paid
7 by the employer and employee. In addition, each
8 employee shall be entitled to have his spouse and
9 dependents, as defined by the rules and regulations of
10 the public employees insurance board, included in any
11 group hospital and surgical insurance or group major
12 medical insurance coverage: *Provided*, That such spouse
13 and dependent coverage shall be limited to excess
14 coverage for each spouse and dependent who has
15 primary coverage from any other source. For purposes
16 of this section, the term "primary coverage" shall mean
17 individual or group hospital and surgical insurance
18 coverage or individual or group major medical insu-
19 rance coverage in which the spouse or dependent is the
20 named insured or certificate holder. The public em-
21 ployees insurance board may require proof regarding
22 spouse and dependent primary coverage and shall adopt
23 rules and regulations governing the nature, discontinu-
24 ance and resumption of any employee's coverage for his
25 spouse and dependents. The public employees insurance
26 board shall adopt rules and regulations governing the
27 discontinuance and resumption of any employees
28 coverage for his or her spouse and dependants.

29 (b) Should a participating employee be terminated
30 from employment involuntarily or in reduction of work

31 force, the employee's insurance coverage provided under
32 this article shall continue for a period of three months
33 at no additional cost to the employee: *Provided*, That an
34 employee discharged for misconduct shall not be eligible
35 for extended benefits under this section: *Provided*,
36 *however*, That coverage may be extended up to the
37 maximum period of three months, while administrative
38 remedies contesting the charge of misconduct are
39 pursued: *Provided further*, That should the discharge for
40 misconduct be upheld, the full cost of the extended
41 coverage shall be reimbursed by the employee. If the
42 employee is again employed or recalled to active
43 employment within twelve months of his prior termina-
44 tion, he shall not be considered a new enrollee and shall
45 not be required to again contribute his share of the
46 premium cost, if he had already fully contributed such
47 share during the prior period of employment.

48 (c) Except as otherwise provided in subsection (f) for
49 higher education full-time faculty employed on an
50 annual contract basis other than for twelve months,
51 when a participating employee, who has elected to
52 participate in the plan before the first day of July, one
53 thousand nine hundred eighty-eight, is compelled or
54 required by law to retire before reaching the age of
55 sixty-five, or when a participating employee voluntarily
56 retires as provided by law, that employee's accrued
57 annual leave and sick leave, if any, shall be credited
58 toward an extension of the insurance coverage provided
59 by this article, according to the following formulae:
60 Such insurance coverage for a retired employee shall
61 continue one additional month for every two days of
62 annual leave or sick leave, or both, which the employee
63 had accrued as of the effective date of his retirement.
64 For a retired employee, his spouse and dependents, such
65 insurance coverage shall continue one additional month
66 for every three days of annual leave or sick leave, or
67 both, which the employee had accrued as of the effective
68 date of his retirement.

69 (d) Notwithstanding the preceding paragraph, except
70 as otherwise provided in subsection (f) for higher
71 education full-time faculty employed on an annual

72 contract basis other than for twelve months, when a
73 participating employee who elects to participate in the
74 plan on and after the first day of July, one thousand nine
75 hundred and eighty-eight, is compelled or required by
76 law to retire before reaching the age of sixty-five, or
77 when such a participating employee voluntarily retires
78 as provided by law, that employee's annual leave or sick
79 leave, if any, shall be credited toward one-half of the
80 premium cost of the insurance provided by this article,
81 for periods and scope of coverage determined according
82 to the following formulae: (1) One additional month of
83 single retiree coverage for every two days of annual
84 leave or sick leave, or both, which the employee had
85 accrued as of the effective date of his or her retirement;
86 (2) One additional month of coverage for a retiree, his
87 or her spouse and dependents for every three days of
88 annual leave or sick leave, or both, which the employee
89 had accrued as of the effective date of his or her
90 retirement. The remaining premium cost shall be borne
91 by such retired employee if he or she elects such
92 coverage. For purposes of this paragraph, an employee
93 who has been a participant under spouse or dependent
94 coverage and who reenters the plan within twelve
95 months after termination of his or her prior coverage,
96 shall be considered to have elected to participate in the
97 plan as of the date of commencement of the prior
98 coverage. For purposes of this paragraph, an employee
99 shall not be considered a new employee after returning
100 from extended authorized leave on or after the first day
101 of July, one thousand nine hundred eighty-eight.

102 (e) In the alternative to the extension of insurance
103 coverage through premium payment provided in the two
104 preceding paragraphs, on and after the first day on
105 July, one thousand nine hundred eight-eight, the
106 participating employee's accrued annual leave and sick
107 leave may be applied, on the basis of two days retire-
108 ment service credit for each one day of accrued annual
109 and sick leave, toward an increase in the employee's
110 retirement benefits with such days constituting addi-
111 tional credited service in computation of such benefits
112 under any state retirement system. However, such
113 credited service shall not be used in meeting initial

114 eligibility for retirement criteria, but only as additional
115 service credited in excess thereof.

116 (f) When a participating employee, who is a higher
117 education full-time faculty member employed on an
118 annual contract basis other than for twelve months, is
119 compelled or required by law to retire, on or after first
120 day of August, one thousand nine hundred eighty-eight,
121 before reaching the age of sixty-five, or when such a
122 participating employee voluntarily retires as provided
123 by law, on or after first day of August, one thousand
124 nine hundred eighty-eight, that employee's insurance
125 coverage, as provided by this article, shall be extended
126 according to the following formulae: Such insurance
127 coverage for a retired higher education full-time faculty
128 member, formerly employed on an annual contract basis
129 other than for twelve months, shall continue beyond the
130 effective date of his retirement one additional year for
131 each three and one-third years of teaching service, as
132 determined by uniform guidelines established by the
133 West Virginia board of regents, for individual coverage,
134 or one additional year for each five years of teaching
135 service for "family" coverage.

136 (g) Any employee who retired prior to the twenty-first
137 of April, one thousand nine hundred seventy-two, and
138 who also otherwise meets the conditions of the "retired
139 employee" definition in section two of this article, shall
140 be eligible for insurance coverage under the same terms
141 and provisions of this article. The premium cost for any
142 such coverage as established by the public employees
143 insurance board shall be borne by such retired
144 employee.

145 (h) All retirees under the provisions of this article,
146 including those defined in section two of this article;
147 those retiring prior to the twenty-first day of April, one
148 thousand nine hundred seventy-two; and those hereafter
149 retiring, shall be eligible for and permitted to obtain
150 health insurance coverage. The premium cost for any
151 such coverage as established by the public employees
152 insurance board, shall be borne by such retired
153 employee.

154 (i) A surviving spouse and dependents of a deceased
 155 employee, who was either an active or retired employee
 156 just prior to such decease, shall be entitled to be
 157 included in any group insurance coverage provided
 158 under this article, and such spouse and dependents shall
 159 bear the premium cost of such insurance coverage. The
 160 public employees insurance board shall establish the
 161 premium cost of any such coverage.

162 (j) In construing the provisions of this section or any
 163 other provisions of this code, the Legislature declares
 164 that it is not now nor has it ever been the Legislature's
 165 intent that elected public officials be provided any sick
 166 leave, annual leave or personal leave, and the enactment
 167 of this section is based upon the fact and assumption
 168 that no statutory or inherent authority exists extending
 169 sick leave, annual leave or personal leave to elected
 170 public officials and the very nature of such positions
 171 preclude the arising or accumulation of such, so as to
 172 be thereafter usable as premium paying credits for
 173 which such officials may claim extended insurance
 174 benefits.

**§5-16-12a. Payment of deductible by employees; annual
 review of deductible; required deductible
 option.**

1 For each calendar year beginning on and after the
 2 first day of January, one thousand nine hundred eighty-
 3 eight, each employee and dependent with public
 4 employees insurance coverage shall pay a deductible of
 5 one hundred dollars per individual per calendar year
 6 upon admission to a hospital. The maximum total
 7 hospitalization deductible per calendar year shall be one
 8 hundred dollars for an employee with individual
 9 coverage and two hundred dollars for an employee with
 10 "family" coverage.

11 For each calendar year beginning on and after the
 12 first day of January, one thousand nine hundred eighty-
 13 eight, in addition to the employee percentage payment
 14 provisions of the present major medical insurance
 15 coverage for amounts exceeding the deductible, each
 16 employee and dependent with public employees insu-

17 rance coverage shall pay major medical deductible,
18 excluding outpatient surgery, of one hundred fifty
19 dollars per individual per calendar year with an
20 aggregate of three hundred dollars per family per
21 calendar year.

22 Beginning on the first day of January, one thousand
23 nine hundred eighty-nine, these deductible limits may
24 be reviewed and increased by the director in order to
25 maintain the efficient and solvent operation of the public
26 employees insurance system, except that the major
27 medical maximum will be two hundred dollars per
28 individual per calendar year and the "family" major
29 medical aggregate will be four hundred dollars per
30 calendar year. The increase in deductibles pursuant to
31 the preceding sentence is not subject to the state
32 administrative procedures act in chapter twenty-nine-a
33 of this code and any increase in deductibles shall be
34 effective no sooner than sixty consecutive days after
35 being filed in the state register.

36 The director shall develop, implement and have in
37 place by the thirty-first day of December, one thousand
38 nine hundred eighty-eight, further deductible and
39 employee premium programs which qualify for favor-
40 able federal income tax treatment under section 125 of
41 the Internal Revenue Code to allow employees to choose
42 either deductible limits or deductible withholding from
43 wages payments based upon their individual needs.

**§5-16-12b. Employee percentage payment for outpatient
x-rays and laboratory services; maximum
payment specified.**

1 On and after first day of April, one thousand nine
2 hundred eighty-eight, each employee covered by the
3 public employees insurance plan shall pay ten percent,
4 not to exceed one hundred dollars per calendar year, of
5 the cost of any outpatient x-rays or outpatient laboratory
6 services.

**§5-16-12c. Optional dental, optical, mental health, disabili-
ty and prepaid retirement plan.**

1 On and after the first day of July, one thousand nine

2 hundred eighty-nine, the director shall make available
3 to participants in the public employees insurance system
4 (1) a dental insurance plan; (2) an optical insurance plan;
5 (3) an out-patient mental health counseling insurance
6 plan providing for not to exceed twelve visits per year
7 to a professional mental health provider; (4) a disability
8 insurance plan; and (5) a prepaid retirement insurance
9 plan. Public employees insurance participants may elect
10 to participate in any one of these plans separately or in
11 combination. Notwithstanding anything in this article to
12 the contrary, all actuarial and administrative costs of
13 each plan shall be totally borne by the premium
14 payments of the participants or local governing bodies
15 electing to participate in that plan. The director is
16 authorized to employ such administrative practices and
17 procedures with respect to these optional plans as are
18 authorized for the administration of other plans under
19 this article. The director shall establish separate funds
20 (1) for deposit of dental insurance premiums and
21 payment of dental insurance claims, (2) for deposit of
22 optical insurance premium payments and payment of
23 optical insurance claims, (3) for deposit of mental health
24 insurance premium payments and payment of mental
25 health claims, (4) for deposit of disability insurance
26 premium payments and payment of disability insurance
27 claims. Such funds shall not be supplemented by nor be
28 used to supplement any other funds.

§5-16-12d. Preferred provider plan.

1 The public employees insurance board shall, on or
2 before the first day of April, one thousand nine hundred
3 eighty-eight, or as soon as practicable, establish a
4 preferred provider system for the delivery of health care
5 to plan participants by all health care providers,
6 including, but not limited to, medical doctors, chiroprac-
7 tors, physicians, osteopathic physicians, surgeons,
8 hospitals, clinics, nursing homes, pharmacies and
9 pharmaceutical companies.

10 The public employees insurance board shall establish
11 the terms of the preferred provider system and the
12 incentives therefor. The terms and incentives may
13 include multi-year renewal options as are not prohibited

14 by the constitution of this state.

§5-16-12e. Preexisting conditions not covered; defined.

1 A preexisting condition is an injury, sickness or
2 pregnancy, or any condition relating to that injury,
3 sickness or pregnancy, for which a participant receives
4 treatment, incurs expenses or manifest symptoms
5 within three months prior to the effective date of
6 coverage: *Provided*, That a preexisting condition shall
7 not include a condition which meets the definition of
8 handicap as provided in section three, article eleven,
9 chapter five of the code.

10 For all participants enrolling in the plan after the
11 effective date of this section, no payment shall be made
12 for expenses incurred for or in connection with a
13 preexisting condition unless the expenses are incurred
14 after the expiration of a one-year period during which
15 the participant is continuously participating in the plan:
16 *Provided*, That these provisions shall not apply to
17 employees who return from extended authorized leave
18 on or after the effective date of this section.

§5-16-13. Payment of costs by employer; schedule of insurance; special funds created; duties of treasurer with respect thereto.

1 All employers operating from state general revenue or
2 special revenue funds or federal funds or any combina-
3 tion thereof shall budget the cost of insurance coverage
4 provided by the public employees insurance agency to
5 current and retired employees of the employer as a
6 separate line item, titled PEI, in its respective annual
7 budget and shall be responsible for the transfer of funds
8 to the director for the cost of insurance for employees
9 covered by the plan. Each spending unit shall pay to the
10 director its proportionate share from each source of
11 funds. Any agency wishing to charge general revenue
12 funds for insurance benefits for retirees under section
13 twelve of this article must provide documentation to the
14 director that such benefits cannot be paid for by any
15 special revenue account or that the retiring employee
16 has been paid solely with general revenue funds for
17 twelve months prior to retirement.

18 All other employers not operating from the state
19 general revenue fund shall pay to the public employees
20 insurance board their share of premium costs from their
21 respective budgets. The public employees insurance
22 board shall establish such employers' share of premium
23 costs to reflect and pay the actual costs of such coverage:
24 *Provided*, That the difference between premium costs
25 charged to such employers on the effective date of this
26 section and the actual costs to be established by the
27 public employees insurance board shall be eliminated
28 over the two fiscal years next succeeding the effective
29 date of this section.

30 In the event an employer not operating from the state
31 general revenue fund terminates its participation in the
32 plan, said employer shall pay to the public employees
33 insurance board an estimated sum of all incurred but
34 not reported claims relating to coverage of employees of
35 said employer. Said estimate of incurred but not
36 reported claims shall be determined by the public
37 employees insurance board pursuant to standard
38 insurance industry procedures and practices.

39 Unless otherwise provided, the state's contribution for
40 employees of the state of West Virginia, its boards,
41 agencies, commissions, departments, institutions or
42 spending units and county boards of education, shall be,
43 effective July one, one thousand nine hundred seventy-
44 four, all or that portion of the total costs of premiums
45 for each employees' complete insurance and medical
46 benefits package as follows:

47 (a) For each employee who has elected to participate
48 in the plan prior to July one, one thousand nine hundred
49 seventy-four, and is currently employed on and after the
50 first day of July, one thousand nine hundred seventy-
51 four, as an employee of an employer as hereinabove
52 specified, the state's contribution shall be one hundred
53 percent of the total costs of premiums;

54 (b) For each employee of employers as hereinabove
55 specified, who elects to participate in the plan on and
56 after the first day of July, one thousand nine hundred
57 seventy-four, but before the first day of July, one

58 thousand nine hundred eighty-eight, the state's contri-
59 bution shall be seventy percent of the total costs of
60 premiums for a period of one year from the date of such
61 election and shall be one hundred percent of the total
62 costs of premiums for all periods thereafter.

63 (c) For each employee of employers as hereinabove
64 specified, who elects to participate in the plan on and
65 after the first day of July, one thousand nine hundred
66 eighty-eight, the state's contribution shall be seventy
67 percent of the total costs of premiums for a period of
68 one year from the date of such election, eighty percent
69 of the total costs of premiums for the second year after
70 the date of such election, ninety percent of the total costs
71 of premiums for the third year from the date of such
72 election and for all periods thereafter: *Provided*, That
73 the maximum contribution of any participating em-
74 ployee after the second year after the date of such
75 election shall be no more than an amount equal to one
76 and one-half percent of the participating employee's
77 gross annual wage and the remainder of the total
78 premium shall be contributed by the state. For the
79 purposes of this paragraph, any employee shall not be
80 considered a new employee, for purposes of these
81 contribution limits, after returning from extended
82 authorized leave on or after the first day of July, one
83 thousand nine hundred eighty-eight.

84 The contribution of other employers (namely: a
85 county, city or town in the state; any separate corpora-
86 tion or instrumentality established by one or more
87 counties, cities or towns, as permitted by law; any
88 corporation or instrumentality supported in most part
89 by counties, cities or towns; any public corporation
90 charged by law with the performance of a governmental
91 function and whose jurisdiction is coextensive with one
92 or more counties, cities or towns; any organization or
93 agency established by, or approved by the department
94 of mental health for the provision of community health
95 or mental retardation services, and which is supported
96 in part by state, county or municipal funds; and a
97 combined city-county health department created pursu-
98 ant to article two, chapter sixteen of the code) shall be

99 such percentage of the cost of the employees' insurance
 100 package as the employers deem reasonable and proper
 101 under their own particular circumstances.

102 The employee's proportionate share of the premium or
 103 cost shall be withheld or deducted by the employer from
 104 such employee's salary or wages as and when paid and
 105 such sums shall be forwarded to the public employees
 106 insurance board with such supporting data as the public
 107 employees insurance board may require.

108 All moneys received by the public employees insu-
 109 rance board shall be deposited in a special fund or funds
 110 as are necessary in the state treasury and the treasurer
 111 of the state shall be custodian of such fund or funds and
 112 shall administer such fund or funds in accordance with
 113 the provisions of this article or as the director may from
 114 time to time direct. The treasurer shall pay all warrants
 115 issued by the state auditor against such fund or funds
 116 as the director may direct in accordance with the
 117 provisions of this article. On and after first day of July,
 118 one thousand nine hundred eighty-eight, all payments
 119 previously required to be made to the public employees
 120 insurance board shall be made to the public employees
 121 insurance agency.

**§5-16-13a. Authorization to assess premiums and adjust
 rates; maximum amount established; proce-
 dure for imposition.**

1 (a) *Authorization.*—Notwithstanding any provisions
 2 in this article to the contrary the director is authorized
 3 pursuant to limitations provided in this section to assess
 4 a monthly health insurance premium which shall
 5 provide differing rates for family and individual
 6 coverage not to exceed the maximum amount, as
 7 specified in subsection (b), upon each employee of the
 8 state of West Virginia, its boards, agencies, commis-
 9 sions, departments, institutions or spending units and
 10 county boards of education who has elected to partici-
 11 pate in the plan and to similarly adjust the premium
 12 rates charged to other employers (namely: a county, city
 13 or town in the state, any separate corporation or
 14 instrumentality established by one or more counties,

15 cities or towns, as permitted by law; any corporation or
16 instrumentality supported in most part by counties,
17 cities or towns; any public corporation charged by law
18 with the performance of a governmental function and
19 whose jurisdiction is coextensive with one or more
20 counties, cities or towns; any organization or agency
21 established by or approved by the department of mental
22 health for the provision of community mental health or
23 mental retardation services, and which is supported in
24 part by state, county or municipal funds; and a
25 combined city-county health department created pursu-
26 ant to article two, chapter sixteen of the code) who may
27 elect to pass through such premium rate adjustment to
28 their employees who have elected to participate in the
29 plan.

30 (b) *Maximum amount.*—For purposes of subsection (a)
31 the maximum amount shall be one and one-half percent
32 of the participating employee's gross monthly wage:
33 *Provided*, That the maximum amount shall be reduced
34 but not below zero by such employee's monthly share of
35 health insurance premium costs incurred pursuant to
36 section thirteen of this article.

37 (c) *Rules and regulations.*—Premium assessments
38 established or increased pursuant to this section shall be
39 implemented by rules and regulations of the director
40 promulgated in accordance with chapter twenty-nine-a
41 of this code: *Provided*, That notwithstanding anything in
42 article three, chapter twenty-nine-a of this code to the
43 contrary, it is hereby deemed that an emergency does
44 not and will not hereafter exist with respect to imple-
45 menting by rule and regulation employee premiums
46 authorized by this section.

47 (d) *Collection.*—The premium assessment shall be
48 withheld or deducted by the employer from such
49 employee's salary or wages as and when paid and such
50 funds shall be forwarded to the director with such
51 supporting data as the director may require.

**§5-16-14. Authorization to take advantage of acts of
Congress, accept gifts, grants and matching
funds.**

1 The public employees insurance board is authorized
2 to take full advantage of the benefits and provisions of
3 any acts of Congress and to accept any and all gifts,
4 grants and matching funds, whether in the form of
5 money or services.

§5-16-15. 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
5 department of the state which operates out of special
6 revenue funds or federal funds or both shall pay its
7 proportionate share of the administrative costs of the
8 insurance plan or plans authorized under the provisions
9 of this article. All other employers not operating from
10 the state general revenue fund shall pay their propor-
11 tionate share of the administrative costs of the insurance
12 plan or plans authorized under the provisions of this
13 article.

**§5-16-16. No member or employee of public employees
insurance agency shall gain directly or
indirectly from any contract or contracts
provided for hereunder; criminal penalties.**

1 No elected or appointed official of the state of West
2 Virginia; nor any member, officer, or employees of the
3 Legislature; nor any officer, agent, servant or employee
4 in the executive branch of state government shall have
5 any interest, direct or indirect, in the gain or profits
6 arising from any contract or contracts provided for in
7 this article. Any such person who shall gain, directly or
8 indirectly, from any contract or contracts herein
9 provided for, except as an insured beneficiary thereof,
10 shall be guilty of a misdemeanor, and, upon conviction
11 thereof, shall be punished by a fine not exceeding one
12 thousand dollars, or by imprisonment in the county jail
13 for a period not exceeding one year, or by both, in the
14 discretion of the court: *Provided*, That nothing in this
15 section shall be construed to prohibit an elected or
16 appointed official of this state, nor an employee of the
17 legislative, judicial or executive branches from provid-

18 ing health care or entering into contracts provided for
19 in section twelve-d of this article.

§5-16-17. Permissive participation; exemptions.

1 The provisions of this article shall not be mandatory
2 upon any employee or employer who is not an employee
3 of or is not the state of West Virginia, its boards,
4 agencies, commissions, departments, institutions or
5 spending units or a county board of education, and
6 nothing contained in this article shall be construed so
7 as to compel any employee or employer to enroll in or
8 subscribe to, any insurance plan authorized by the
9 provisions of this article.

10 Those employees enrolled in the insurance program
11 authorized under the provisions of article two-b, chapter
12 twenty-one-a of this code shall not be required to enroll
13 in or subscribe to an insurance plan or plans authorized
14 by the provisions of this article, and the employees of
15 any department which has an existing insurance
16 program for its employees to which the government of
17 the United States contributes any part or all of the
18 premium or cost thereof may be exempted from the
19 provisions of this article. Any employee or employer
20 exempted under the provisions of this paragraph may
21 enroll in any insurance program authorized by the
22 provisions of this article at any time, to the same extent
23 as any other qualified employee or employer, but any
24 such employee or employer shall not remain enrolled in
25 both such programs. The provisions of articles fourteen,
26 fifteen and sixteen, chapter thirty-three of the code,
27 relating to group life insurance, accident and sickness
28 insurance, and group accident and sickness insurance,
29 shall not be applicable to the provisions of this article
30 whenever the provisions of said articles and chapter are
31 in conflict with or contrary to any provision set forth
32 herein.

33 Employers, other than the state of West Virginia, its
34 boards, agencies, commissions, departments, institu-
35 tions, spending units, or a county board of education
36 shall be exempt from participating in the insurance
37 program provided for by the provisions of this article

38 unless participation by the employer has been approved
39 by a majority vote of the employer's governing body. It
40 shall be the duty of the clerk or secretary of the
41 governing body of an employer who by such majority
42 vote becomes a participant in the insurance program to
43 notify the public employees insurance board not later
44 than ten days after such vote.

**§5-16-17a. Members of Legislature may be covered, if
cost of the entire coverage is paid by such
members.**

1 Notwithstanding the definition of the term "employee"
2 contained in section two of this article and notwithstand-
3 ing any other provision of this article to the contrary,
4 members of the Legislature may participate in and be
5 covered by any insurance plan or plans authorized
6 hereunder for state officers and employees, except that
7 all members of the Legislature who elect to participate
8 in or to be covered by any such plan or plans shall pay
9 their proportionate individual share of the full cost for
10 all group coverage on themselves and their spouses and
11 dependents, so that there will be no cost to the state for
12 the coverage of any such members, spouses and depend-
13 ents.

**§5-16-18. Rules and regulations for administration of
article; eligibility of certain retired em-
ployees and dependents of deceased
members for coverage; employees on medi-
cal leave of absence entitled to coverage; life
insurance.**

1 The public employees insurance board or director
2 shall promulgate such rules and regulations as may be
3 required for the effective administration of the provi-
4 sions of this article. Unless otherwise specifically
5 provided, all rules and regulations of the public
6 employees insurance board or director and all hearings
7 held by the public employees insurance board or
8 director shall be exempt from the provisions of chapter
9 twenty-nine-a of the code. Any rules and regulations
10 now in existence promulgated by the public employees
11 insurance board shall remain in full force and effect

12 until they are amended or replaced by the public
13 employees insurance board pursuant to law.

14 Such regulations shall provide that any employee of
15 the state who has been compelled or required by law to
16 retire before reaching the age of sixty-five years shall
17 be eligible to participate in the public employees' health
18 insurance program at his own expense for the cost of
19 coverage after any extended coverage to which he, his
20 spouse and dependents may be entitled by virtue of his
21 accrued annual leave or sick leave, pursuant to the
22 provisions of section twelve of this article, has expired.
23 The dependents of any deceased member shall be
24 entitled to continue their participation and coverage
25 upon payment of the total cost for such coverage. Any
26 employee who voluntarily retires, as provided by law,
27 shall be eligible to participate in the public employees'
28 health insurance program at his own expense for the
29 cost of coverage after any extended coverage to which
30 he, his spouse and dependents may be entitled by virtue
31 of his accrued annual leave or sick leave, pursuant to
32 the provisions of section twelve of this article, has
33 expired.

34 Any employee who is on a medical leave of absence,
35 approved by his employer, shall, subject to the following
36 provisions of this paragraph, be entitled to continue his
37 coverage until he returns to his employment, and such
38 employee and employer shall continue to pay their
39 proportionate share of premium costs as provided by
40 this article: *Provided*, That the employer shall be
41 obligated to pay its proportionate share of the premium
42 cost only for a period of one year: *Provided, however*,
43 That during the period of such leave of absence, the
44 employee shall, at least once each month, submit to the
45 employer the statement of a qualified physician certify-
46 ing that the employee is unable to return to work.

47 Any retiree, retiring heretofore or hereafter, shall be
48 eligible to participate in the public employees' life
49 insurance program, including the optional life insurance
50 coverage as already available to active employees under
51 this article, at his own expense for the cost of coverage,
52 based upon actuarial experience; and the public em-

53 ployees insurance board shall prepare, by rule and
54 regulation, for such participation and coverages under
55 declining term insurance and optional additional
56 coverage for such retirees.

§5-16-19. Reserve fund.

1 In the event that the budgeted allocation to the public
2 employees insurance board or agency exceeds actual
3 costs in any given month, the public employees insu-
4 rance board or director shall deposit those moneys in a
5 reserve fund maintained by the public employees
6 insurance board or director, for the exclusive purpose
7 of offsetting any future increases in health care costs.

§5-16-20. Quarterly report.

1 By the thirtieth day of October, one thousand nine
2 hundred eighty-eight, and on or before the thirtieth day
3 of January, April, July and October of each year
4 thereafter, the director shall prepare and present to the
5 joint committee on government and finance a quarterly
6 report setting forth:

7 (a) A summary of the cost to the plan of health care
8 claims incurred in the preceding calendar quarter;

9 (b) A summary of the funds accrued to the plan by
10 legislative appropriation, employer and employee
11 premiums or otherwise in the preceding calendar
12 quarter for payment of health care claims;

13 (c) An explanation of all health care cost containment
14 measures, increased premium rates and any other plan
15 changes adopted by the director in the preceding
16 calendar quarter and estimated cost savings and
17 enhanced revenues resulting therefrom, and a certifica-
18 tion that the director made a good faith effort to develop
19 and implement all reasonable health care cost contain-
20 ment alternatives;

21 (d) Expected claim costs for the next calendar year;

22 (e) Such other information as the director deems
23 appropriate; and

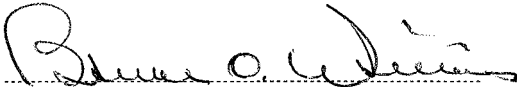
24 (f) Any other financial or other information as may be

25 requested by the joint committee on government and
26 finance.

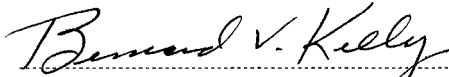
§5-16-21. Severability.

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

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




Chairman Senate Committee



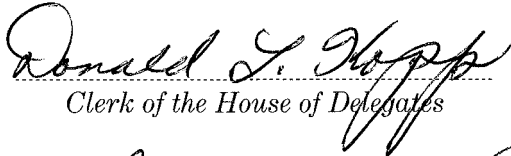
Chairman House Committee

Originating in the House.

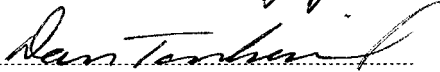
Takes effect from passage.



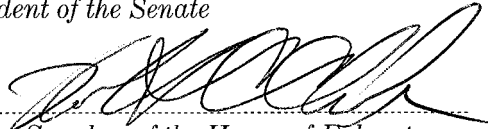
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within approved this the 14th
March day of _____, 1988.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/8/58

Time 4:30 pm

RECEIVED

1989 MAR 22 PM 3:43

OFFICE OF SECRETARY OF DEFENSE
SECRETARY OF DEFENSE