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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992

ENROLLED

Committee Substitute for
SENATE BILL NO. 536

(By Senator *Andrille, M. President*)

PASSED March 7, 1992

In Effect from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 536

(BY SENATOR BURDETTE, MR. PRESIDENT, BY REQUEST)

[Passed March 7, 1992; in effect from passage.]

AN ACT to amend and reenact sections five, ten, thirteen, fifteen, seventeen, eighteen, twenty-two and twenty-four, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article nine-a, chapter eighteen of said code by adding thereto a new section, designated section twenty-four, all relating to public employees insurance; costs to retired employees; transfer of certain funds to the medicaid program; providing that the finance board establish certain premium costs; removing pregnancy as a preexisting condition and providing for continuity of coverage for previously insured new employees with preexisting conditions; requiring county boards of education and other employers to fund premium costs in excess of general revenue appropriations, requiring notification of maximum amount of such costs, setting a maximum amount of such costs of five million dollars, and limiting use of school aid appropriations to employer premiums for employees whose positions are funded by state funds; requiring

employers to pay contributions as determined by the finance board; providing for payment of premium contributions of retired employees; and authorizing use of school aid funds for employer premiums.

Be it enacted by the Legislature of West Virginia:

That sections five, ten, thirteen, fifteen, seventeen, eighteen, twenty-two and twenty-four, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article nine-a, chapter eighteen of said code be amended by adding thereto a new section, designated section twenty-four, all 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 INSURANCE
ACT.**

**§5-16-5. Purpose, powers and duties of the finance board;
initial financial plan; financial plan for fol-
lowing year; and annual financial plans.**

1 (a) The purpose of the finance board created by this
2 article is to bring fiscal stability to the public
3 employees insurance agency through development of
4 an annual financial plan designed to meet the agency's
5 estimated total financial requirements, taking into
6 account all revenues projected to be made available to
7 the agency, and apportioning necessary costs equitably
8 among participating employers, employees and retired
9 employees and providers of health care services.

10 (b) The finance board shall retain the services of an
11 impartial, professional actuary, with demonstrated
12 experience in analysis of large group health insurance
13 plans, to estimate the total financial requirements of
14 the public employees insurance agency for each fiscal
15 year and to review and render written professional
16 opinions as to financial plans proposed by the finance
17 board. The finance board shall also employ the actuary

18 to develop alternative financing options and to per-
19 form such other services as may be requested by the
20 finance board. All reasonable fees and expenses for
21 actuarial services shall be paid by the public
22 employees insurance agency. Any financial plan or
23 modifications to a financial plan approved or proposed
24 by the finance board pursuant to this section shall be
25 submitted to and reviewed by the actuary, and may
26 not be finally approved and submitted to the governor
27 and to the Legislature without the actuary's written
28 professional opinion that the plan may be reasonably
29 expected to generate sufficient revenues to meet all
30 estimated program and administrative costs of the
31 agency, excluding incurred but unreported claims, for
32 the fiscal year for which the plan is proposed. The
33 actuary's opinion on the initial plan required by
34 subsection (d) of this section shall allow for a target of
35 forty-five days of accounts payable to be carried over
36 into the next fiscal year. The actuary's opinion on the
37 financial plan for fiscal year one thousand nine
38 hundred ninety-two shall allow for between thirty and
39 forty-five days of accounts payable to be carried over
40 into the next fiscal year. The actuary's opinion on the
41 financial plan for any succeeding fiscal year shall
42 allow for no more than thirty days of accounts payable
43 to be carried over into the next fiscal year. The
44 actuary's opinion for any fiscal year shall not include
45 a requirement for establishment of a reserve fund.

46 (c) All financial plans required by this section shall
47 include the design of a benefit plan or plans. All
48 financial plans shall establish:

49 (1) Maximum levels of reimbursement which the
50 public employees insurance agency makes to catego-
51 ries of health care providers;

52 (2) Any necessary cost containment measures for
53 implementation by the director;

54 (3) The levels of premium costs to participating
55 employers; and

56 (4) The types and levels of cost to participating
57 employees and retired employees.

58 The financial plans may provide for different levels
59 of costs based on the insureds' ability to pay. The
60 finance board may establish different levels of costs to
61 retired employees based upon length of employment
62 with a participating employer, ability to pay, or other
63 relevant factors. The financial plans may also include
64 optional alternative benefit plans with alternative
65 types and levels of cost. The finance board may
66 develop policies which encourage the use of West
67 Virginia health care providers.

68 In addition, the finance board may allocate a portion
69 of the premium costs charged to participating employ-
70 ers to subsidize the cost of coverage for participating
71 retired employees, on such terms as the finance board
72 determines are equitable and financially responsible.

73 (d) *Initial plan.* — The director shall convene the
74 first meeting of the finance board no later than the
75 fifteenth day of September, one thousand nine hun-
76 dred ninety. For presentation by the director at the
77 first meeting, the governor shall prepare an estimate
78 of the total amount of general and special revenues
79 which the state has or will have available to fund the
80 public employees insurance agency and its programs
81 for the fiscal year ending on the thirtieth day of June,
82 one thousand nine hundred ninety-one.

83 Notwithstanding any provision of this article to the
84 contrary, during any meeting authorized by subsection
85 (h) of this section to review implementation of the
86 initial financial plan in light of actual experience, the
87 finance board, in its discretion, may elect to redesign
88 the initial financial plan so that revenues generated
89 will meet all incurred and projected program and
90 administrative costs of the public employees insurance
91 agency by the end of the fiscal year ending on the
92 thirtieth day of June, one thousand nine hundred
93 ninety-two, rather than by the thirtieth day of June,
94 one thousand nine hundred ninety-one. Before imple-
95 menting any such modifications, the finance board
96 shall obtain a written professional opinion from its
97 actuary stating that the modified plan may be reason-
98 ably expected to generate sufficient revenues to meet

99 all estimated program and administrative costs of the
100 public employees insurance agency for the remainder
101 of fiscal year one thousand nine hundred ninety-one
102 and for fiscal year one thousand nine hundred ninety-
103 two, allowing for between thirty and forty-five days of
104 accounts payable to be carried over into fiscal year one
105 thousand nine hundred ninety-three. The finance
106 board shall also afford interested and affected persons
107 an opportunity to offer comment on the modified plan
108 at a public meeting of the finance board. Regardless of
109 whether or not the finance board modifies the initial
110 financial plan as authorized by this subsection, the
111 finance board shall prepare a financial plan for fiscal
112 year one thousand nine hundred ninety-two in accor-
113 dance with subsection (e) of this section.

114 The finance board shall prepare, no later than the
115 tenth day of November, one thousand nine hundred
116 ninety, a proposed financial plan designed to generate
117 revenues sufficient to meet all program and adminis-
118 trative costs of the public employees insurance agency
119 which have already been incurred but are unpaid, or
120 which the actuary estimates will be incurred and paid
121 during the remainder of fiscal year one thousand nine
122 hundred ninety-one, excluding incurred but unre-
123 ported claims. The finance board shall establish in the
124 proposed financial plan a target of forty-five days of
125 accounts payable which may be carried over into the
126 next fiscal year.

127 The finance board shall request its actuary to review
128 the proposed financial plan and to render a written
129 professional opinion stating whether the plan may be
130 reasonably expected to generate sufficient revenues to
131 meet all estimated program and administrative costs of
132 the public employees insurance agency for the fiscal
133 year. The actuary's report shall explain the basis of his
134 or her opinion. If the actuary concludes that the
135 proposed financial plan will not generate sufficient
136 revenues to meet all anticipated costs, then the finance
137 board shall make necessary modifications to the
138 proposed plan to ensure that all actuarially-
139 determined financial requirements of the agency will
140 be met.

141 Upon obtaining the actuary's opinion and making all
142 necessary modifications to the proposed plan, the
143 finance board shall conduct two or more public
144 hearings to receive public comment on the proposed
145 financial plan, shall review such comments, and shall
146 finalize and approve the financial plan no later than
147 the twentieth day of November, one thousand nine
148 hundred ninety. Employees shall be notified of any
149 changes in the types and levels of employee costs or
150 benefits contained in the financial plan at least thirty
151 days prior to the date of implementation of the
152 financial plan.

153 The finance board shall submit to the governor and
154 to the Legislature the final, approved financial plan no
155 later than the first day of December, one thousand
156 nine hundred ninety. The financial plan shall become
157 effective and shall be implemented by the director on
158 the first day of January, one thousand nine hundred
159 ninety-one.

160 (e) *Plan for fiscal year one thousand nine hundred*
161 *ninety-two.* — No later than the first day of December,
162 one thousand nine hundred ninety, the governor shall
163 prepare and provide to the finance board an estimate
164 of the total amount of general and special revenues
165 which the state will have available to fund the public
166 employees insurance agency and its programs for the
167 fiscal year beginning the first day of July, one thou-
168 sand nine hundred ninety-one. The finance board shall
169 request its actuary to estimate the total financial
170 requirements of the public employees insurance
171 agency for the fiscal year.

172 The finance board shall prepare a proposed financial
173 plan designed to generate revenues sufficient to meet
174 all estimated program and administrative costs of the
175 public employees insurance agency for the fiscal year.
176 The proposed financial plan shall allow for between
177 thirty and forty-five days of accounts payable to be
178 carried over into the next fiscal year. Before final
179 adoption of the proposed financial plan, the finance
180 board shall request its actuary to review the plan and
181 to render a written professional opinion stating

182 whether the plan will generate sufficient revenues to
183 meet all estimated program and administrative costs of
184 the public employees insurance agency for the fiscal
185 year. The actuary's report shall explain the basis of its
186 opinion. If the actuary concludes that the proposed
187 financial plan will not generate sufficient revenues to
188 meet all anticipated costs, then the finance board shall
189 make necessary modifications to the proposed plan to
190 ensure that all actuarially-determined financial
191 requirements of the agency will be met.

192 Upon obtaining the actuary's opinion, the finance
193 board shall conduct one or more public hearings in
194 each congressional district to receive public comment
195 on the proposed financial plan, shall review such
196 comments, and shall finalize and approve the financial
197 plan.

198 The finance board shall submit to the governor and
199 to the Legislature its final, approved financial plan for
200 fiscal year one thousand nine hundred ninety-two,
201 together with the actuary's final written opinion, no
202 later than the first day of May, one thousand nine
203 hundred ninety-one. The financial plan shall become
204 effective and shall be implemented by the director on
205 the first day of July, one thousand nine hundred
206 ninety-one.

207 (f) *Annual plans.* — The finance board shall prepare,
208 in the manner provided in subsection (e) of this
209 section, an annual financial plan for fiscal year one
210 thousand nine hundred ninety-three and each fiscal
211 year thereafter during which the finance board
212 remains in existence. Any such financial plan shall be
213 designed to allow thirty days or less of accounts
214 payable to be carried over into the next fiscal year.
215 For each such fiscal year, the governor shall provide
216 his or her estimate of total revenues to the finance
217 board no later than the first day of July of the
218 preceding fiscal year. The finance board shall submit
219 its final, approved financial plan, after obtaining the
220 necessary actuary's opinion and conducting one or
221 more public hearings in each congressional district, to
222 the governor and to the Legislature no later than the

223 first day of January preceding the fiscal year. The
224 financial plan for a fiscal year shall become effective
225 and shall be implemented by the director on the first
226 day of July of such fiscal year.

227 (g) The provisions of chapter twenty-nine-a of this
228 code shall not apply to the preparation, approval and
229 implementation of the financial plans required by this
230 section.

231 (h) The finance board shall meet on at least a
232 quarterly basis to review implementation of its cur-
233 rent financial plan in light of the actual experience of
234 the public employees insurance agency. The board
235 shall review actual costs incurred, any revised cost
236 estimates provided by the actuary, expenditures, and
237 any other factors affecting the fiscal stability of the
238 plan, and may make any additional modifications to
239 the plan necessary to ensure that the total financial
240 requirements of the agency for the current fiscal year
241 are met. The financial board may not increase the
242 types and levels of cost to employees during its
243 quarterly review except in the event of a true
244 emergency.

245 (i) For any fiscal year in which legislative appropri-
246 ations differ from the governor's estimate of general
247 and special revenues available to the agency, the
248 finance board shall, within thirty days after passage of
249 the budget bill, make any modifications to the plan
250 necessary to ensure that the total financial require-
251 ments of the agency for the current fiscal year are
252 met.

253 (j) The types and levels of costs to employers,
254 employees and retired employees participating in
255 public employees insurance agency group insurance
256 plans which are currently in effect on the effective
257 date of this article are hereby authorized. The types
258 and levels of costs to employees participating in public
259 employees insurance agency group insurance plans
260 which are currently in effect on the effective date of
261 this article shall remain in effect unless and until
262 changed or authorized to be changed by the finance

263 board in a financial plan prepared and approved in
264 accordance with this section.

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

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

9 In the event the public employees insurance agency
10 provides the above benefits for retired employees,
11 their spouses and dependents, the public employees
12 insurance agency shall adopt rules and regulations
13 prescribing the conditions under which retired
14 employees may elect to participate in or withdraw
15 from the plan or plans. Any contract or contracts
16 herein provided for shall be secondary to any hospital,
17 surgical, major medical, prescription drug or other
18 health insurance plan administered by the United
19 States department of health and human services to
20 which the retired employee, spouse or dependent may
21 be eligible under any law or regulation of the United
22 States. If an employee, eligible to participate in the
23 public employees insurance agency plans, is also
24 eligible to participate in the state medicaid program,
25 and chooses to do so, then the public employees
26 insurance agency may transfer to the medicaid pro-
27 gram funds to pay the required state share of such
28 employee's participation in medicaid except that the
29 amount transferred may not exceed the amount that
30 would be allocated by the agency to subsidize the cost
31 of coverage for the retired employee if he or she were
32 enrolled in the public employee insurance agency's
33 plans.

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

28 (b) Should a participating employee be terminated

29 from employment involuntarily or in reduction of
30 work force, the employee's insurance coverage pro-
31 vided under this article shall continue for a period of
32 three months at no additional cost to the employee:
33 *Provided*, That an employee discharged for misconduct
34 shall not be eligible for extended benefits under this
35 section: *Provided, however*, That coverage may be
36 extended up to the maximum period of three months,
37 while administrative remedies contesting the charge of
38 misconduct are pursued: *Provided further*, That
39 should the discharge for misconduct be upheld, the
40 full cost of the extended coverage shall be reimbursed
41 by the employee. If the employee is again employed or
42 recalled to active employment within twelve months
43 of his or her prior termination, he or she shall not be
44 considered a new enrollee and shall not be required to
45 again contribute his or her share of the premium cost,
46 if he or she had already fully contributed such share
47 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 volun-
56 tarily retires as provided by law, that employee's
57 accrued annual leave and sick leave, if any, shall be
58 credited toward an extension of the insurance cover-
59 age provided by this article, according to the following
60 formulae: Such insurance coverage for a retired
61 employee shall continue one additional month for
62 every two days of annual leave or sick leave, or both,
63 which the employee had accrued as of the effective
64 date of his or her retirement. For a retired employee,
65 his or her spouse and dependents, such insurance
66 coverage shall continue one additional month for
67 every three days of annual leave or sick leave, or both,
68 which the employee had accrued as of the effective
69 date of his or her retirement.

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

104 (e) In the alternative to the extension of insurance
105 coverage through premium payment provided in the
106 two preceding subsections, on and after the first day of
107 July, one thousand nine hundred eighty-eight, the
108 participating employee's accrued annual leave and sick
109 leave may be applied, on the basis of two days retire-
110 ment service credit for each one day of accrued annual
111 and sick leave, toward an increase in the employee's

112 retirement benefits with such days constituting addi-
113 tional credited service in computation of such benefits
114 under any state retirement system. However, such
115 credited service shall not be used in meeting initial
116 eligibility for retirement criteria, but only as addi-
117 tional service credited in excess thereof.

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

140 (g) Any employee who retired prior to the twenty-
141 first day of April, one thousand nine hundred seventy-
142 two, and who also otherwise meets the conditions of
143 the "retired employee" definition in section two of
144 this article, shall be eligible for insurance coverage
145 under the same terms and provisions of this article.
146 The retired employee's premium contribution for any
147 such coverage shall be established by the finance
148 board.

149 (h) All retirees under the provisions of this article,
150 including those defined in section two of this article;
151 those retiring prior to the twenty-first day of April,
152 one thousand nine hundred seventy-two; and those

153 hereafter retiring shall be eligible for and permitted to
154 obtain health insurance coverage. The retired
155 employee's premium contribution for any such cover-
156 age shall be established by the finance board.

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

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

**§5-16-15. Optional dental, optical, disability and prepaid
retirement plan, and audiology and hearing
aid service 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
4 system: (1) A dental insurance plan; (2) an optical
5 insurance plan; (3) a disability insurance plan; (4) a
6 prepaid retirement insurance plan; and (5) an audiol-
7 ogy and hearing aid services insurance plan. Public
8 employees insurance participants may elect to partic-
9 ipate in any one of these plans separately or in
10 combination. Notwithstanding anything in this article
11 to the contrary, all actuarial and administrative costs
12 of each plan shall be totally borne by the premium

13 payments of the participants or local governing bodies
14 electing to participate in that plan. The director is
15 authorized to employ such administrative practices
16 and procedures with respect to these optional plans as
17 are authorized for the administration of other plans
18 under this article. The director shall establish separate
19 funds: (1) For deposit of dental insurance premiums
20 and payment of dental insurance claims; (2) for deposit
21 of optical insurance premium payments and payment
22 of optical insurance claims; (3) for deposit of disability
23 insurance premium payments and payment of disabili-
24 ty insurance claims; and (4) for deposit of audiology
25 and hearing aid service insurance premiums and
26 payment of audiology and hearing aid insurance
27 claims. Such funds shall not be supplemented by nor
28 be used to supplement any other funds.

§5-16-17. Preexisting conditions not covered; defined.

1 A preexisting condition is an injury, or sickness or
2 any condition relating to that injury, or sickness, for
3 which a participant is diagnosed, receives treatment,
4 or incurs expenses within three months prior to the
5 effective date of coverage: *Provided*, That a preexisting
6 condition shall not include a condition which meets
7 the definition of handicap as provided in section three,
8 article eleven, chapter five of this code. In determin-
9 ing whether the preexisting condition limitation
10 provision applies to an eligible employee or dependent,
11 the public employees insurance agency shall credit the
12 time such person was covered under any previous
13 employer-based health benefit plan, any comparable
14 individual health benefit plan, or any self-insured plan
15 if the previous coverage was continuous to a date not
16 more than thirty days prior to the effective date of the
17 new coverage, exclusive of an applicable waiting
18 period under such plan.

19 For all participants enrolling in the plan after the
20 effective date of this section, no payment shall be
21 made for expenses incurred for or in connection with
22 a preexisting condition unless the expenses are
23 incurred after the expiration of a one-year period
24 during which the participant is continuously partici-
25 pating in the plan.

§5-16-18. 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
2 or special revenue funds or federal funds or any
3 combination thereof shall budget the cost of insurance
4 coverage provided by the public employees insurance
5 agency to current and retired employees of the
6 employer as a separate line item, titled "PEI", in its
7 respective annual budget and shall be responsible for
8 the transfer of funds to the director for the cost of
9 insurance for employees covered by the plan. Each
10 spending unit shall pay to the director its proportion-
11 ate share from each source of funds. Any agency
12 wishing to charge general revenue funds for insurance
13 benefits for retirees under section thirteen of this
14 article must provide documentation to the director
15 that such benefits cannot be paid for by any special
16 revenue account or that the retiring employee has
17 been paid solely with general revenue funds for
18 twelve months prior to retirement.

19 Should the general revenue appropriation for any
20 employer, including a county board of education, be
21 insufficient to cover the cost of insurance coverage for
22 such employer's participating employees, retired
23 employees and surviving dependents, the employer
24 shall pay the remainder of such cost from its "personal
25 services" or "unclassified" line items or, in the case of
26 a county board of education, from other funds: *Pro-*
27 *vided*, That local excess levy funds shall be used only
28 for the purposes for which they were raised: *Provided*,
29 *however*, That after approval of its annual financial
30 plan but in no event later than the thirty-first day of
31 December of each year, the finance board shall notify
32 the Legislature and county boards of education of the
33 maximum amount of employer premiums that the
34 county boards of education will be required to pay for
35 covered employees during the following fiscal year:
36 *Provided further*, That said amount shall not exceed
37 five million dollars during fiscal year one thousand
38 nine hundred ninety-three: *And provided further*,

39 That the finance board and department of education
40 shall determine the extent to which state school aid
41 appropriations are being used by the county school
42 boards to pay employer premiums for employees
43 whose positions are not funded by state revenues and
44 shall develop and implement a plan to minimize such
45 expenditures.

46 All other employers not operating from the state
47 general revenue fund shall pay to the director their
48 share of premium costs from their respective budgets.
49 The finance board shall establish such employers'
50 share of premium costs to reflect and pay the actual
51 costs of such coverage including incurred but not
52 reported claims.

53 The contribution of such other employers (namely: a
54 county, city or town in the state; any separate corpo-
55 ration or instrumentality established by one or more
56 counties, cities or towns, as permitted by law; any
57 corporation or instrumentality supported in most part
58 by counties, cities or towns; any public corporation
59 charged by law with the performance of a governmen-
60 tal function and whose jurisdiction is coextensive with
61 one or more counties, cities or towns; any comprehen-
62 sive community mental health center or comprehen-
63 sive mental retardation facility established, operated
64 or licensed by the secretary of health and human
65 resources pursuant to section one, article two-a,
66 chapter twenty-seven of this code, and which is
67 supported in part by state, county or municipal funds;
68 and a combined city-county health department created
69 pursuant to article two, chapter sixteen of the code)
70 for their employees shall be such percentage of the
71 cost of the employees' insurance package as the
72 employers deem reasonable and proper under their
73 own particular circumstances.

74 The employee's proportionate share of the premium
75 or cost shall be withheld or deducted by the employer
76 from such employee's salary or wages as and when
77 paid and such sums shall be forwarded to the director
78 with such supporting data as the director may require.

79 All moneys received by the public employees insur-
80 ance agency shall be deposited in a special fund or
81 funds as are necessary in the state treasury and the
82 treasurer of the state shall be custodian of such fund
83 or funds and shall administer such fund or funds in
84 accordance with the provisions of this article or as the
85 director may from time to time direct. The treasurer
86 shall pay all warrants issued by the state auditor
87 against such fund or funds as the director may direct
88 in accordance with the provisions of this article. On
89 and after the first day of July, one thousand nine
90 hundred eighty-eight, all payments previously
91 required to be made to the public employees insurance
92 board shall be made to the public employees insurance
93 agency.

§5-16-22. Permissive participation; exemptions.

1 The provisions of this article shall not be mandatory
2 upon any employee or employer who is not an
3 employee of or is not the state of West Virginia, its
4 boards, agencies, commissions, departments, institu-
5 tions or spending units or a county board of education,
6 and nothing contained in this article shall be construed
7 so as to compel any employee or employer to enroll in
8 or 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,
12 chapter twenty-one-a of this code shall not be required
13 to enroll in or subscribe to an insurance plan or plans
14 authorized by the provisions of this article, and the
15 employees of any department which has an existing
16 insurance program for its employees to which the
17 government of the United States contributes any part
18 or all of the premium or cost thereof may be exemp-
19 ted from the provisions of this article. Any employee
20 or employer exempted under the provisions of this
21 paragraph may enroll in any insurance program
22 authorized by the provisions of this article at any time,
23 to the same extent as any other qualified employee or
24 employer, but any such employee or employer shall
25 not remain enrolled in both such programs. The
26 provisions of articles fourteen, fifteen and sixteen,
27 chapter thirty-three of this code, relating to group life

28 insurance, accident and sickness insurance, and group
29 accident and sickness insurance, shall not be applicable
30 to the provisions of this article whenever the provi-
31 sions of said articles and chapter are in conflict with
32 or contrary to any provision set forth herein or to any
33 plan or plans established by the public employees
34 insurance agency.

35 Employers, other than the state of West Virginia, its
36 boards, agencies, commissions, departments, institu-
37 tions, spending units, or a county board of education
38 shall be exempt from participating in the insurance
39 program provided for by the provisions of this article
40 unless participation by the employer has been
41 approved by a majority vote of the employer's govern-
42 ing body. It shall be the duty of the clerk or secretary
43 of the governing body of an employer who by such
44 majority vote becomes a participant in the insurance
45 program to notify the director not later than ten days
46 after such vote.

47 Any employer, whether such employer participates
48 in the public employees insurance agency insurance
49 program as a group or not, which has retired
50 employees, their dependents, or surviving dependents
51 of deceased retired employees who participate in the
52 public employees insurance agency insurance program
53 as authorized by this article, shall pay to the agency
54 the same contribution toward the cost of coverage for
55 its retired employees, their dependents, or surviving
56 dependents of deceased retired employees as the state
57 of West Virginia, its boards, agencies, commissions,
58 departments, institutions, spending units, or a county
59 board of education pay for their retired employees,
60 their dependents, and surviving dependents of
61 deceased retired employees, as determined by the
62 finance board. Each employer is hereby authorized
63 and required to budget for and make such payments.

**§5-16-24. Rules and regulations for administration of article;
eligibility of certain retired employees and
dependents of deceased members for cover-
age; employees on medical leave of absence
entitled to coverage; life insurance.**

1 The director shall promulgate such rules and regu-

2 lations as may be required for the effective adminis-
3 tration of the provisions of this article. Except as
4 specifically provided in subsection (e), section four of
5 this article, all rules and regulations of the public
6 employees insurance agency and all hearings held by
7 the public employees insurance agency shall be
8 exempt from the provisions of chapter twenty-nine-a
9 of this code. Any rules and regulations now in exis-
10 tence promulgated by the public employees insurance
11 board or director shall remain in full force and effect
12 until they are amended or replaced by the director.

13 Such regulations shall provide that any employee of
14 the state who has been compelled or required by law
15 to retire before reaching the age of sixty-five years
16 shall be eligible to participate in the public employees'
17 health insurance program at the premium contribu-
18 tion established by the finance board after any
19 extended coverage to which he or she, his or her
20 spouse and dependents may be entitled by virtue of
21 his or her accrued annual leave or sick leave, pursuant
22 to the provisions of section thirteen of this article, has
23 expired. Any employee who voluntarily retires, as
24 provided by law, shall be eligible to participate in the
25 public employees' health insurance program at the
26 premium contribution established by the finance
27 board after any extended coverage to which he or she,
28 his or her spouse and dependents may be entitled by
29 virtue of his or her accrued annual leave or sick leave,
30 pursuant to the provisions of section thirteen of this
31 article, has expired. The dependents of any deceased
32 retired employee shall be entitled to continue their
33 participation and coverage upon payment of the
34 premium contribution established by the finance
35 board. In establishing the cost of health insurance
36 coverage for retired employees and their spouses and
37 dependents, the finance board, in its discretion, may
38 cause the claims experience of such retired employees
39 and their spouses and dependents to be rated sepa-
40 rately from that of active employees and their spouses
41 and dependents, or may cause the claims experience of
42 retired and active employees, and their spouses and
43 dependents, to be rated together.

44 Any employee who is on a medical leave of absence,
 45 approved by his or her employer, shall, subject to the
 46 following provisions of this paragraph, be entitled to
 47 continue his or her coverage until he or she returns to
 48 his or her employment, and such employee and
 49 employer shall continue to pay their proportionate
 50 share of premium costs as provided by this article:
 51 *Provided*, That the employer shall be obligated to pay
 52 its proportionate share of the premium cost only for a
 53 period of one year: *Provided, however*, That during
 54 the period of such leave of absence, the employee
 55 shall, at least once each month, submit to the
 56 employer the statement of a qualified physician
 57 certifying that the employee is unable to return to
 58 work.

59 Any retiree, retiring heretofore or hereafter, shall
 60 be eligible to participate in the public employees' life
 61 insurance program, including the optional life insur-
 62 ance coverage as already available to active employees
 63 under this article, at his or her own expense for the
 64 cost of coverage, based upon actuarial experience; and
 65 the director shall prepare, by rule and regulation, for
 66 such participation and coverages under declining term
 67 insurance and optional additional coverage for such
 68 retirees.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-24. Payments to public employee insurance agency.

1 Nothing in this article shall be construed to limit the
 2 ability of county boards of education to use funds
 3 appropriated to county boards of education pursuant to
 4 this article to pay employer premiums to the public
 5 employees insurance agency for employees whose
 6 positions are funded pursuant to this article. Funds
 7 appropriated to county boards of education pursuant to
 8 this article shall not be used to pay employer premi-
 9 ums for employees of such boards whose positions are
 10 not, or will not be within twenty months, funded by
 11 funds appropriated pursuant to this article.

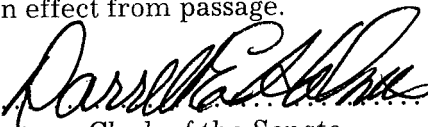
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

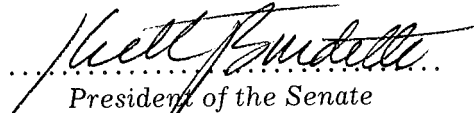

.....
Chairman House Committee


Originated in the Senate.

In effect from passage.

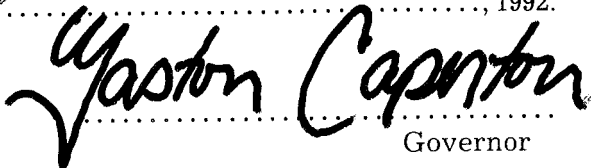

.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this the 1st
day of April, 1992.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date

5/30/92

Time

9:40 am