WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1992

ENROLLED

Committee Substitute for
SENATE BILL NO. 536

(By Senator Sandile, M. President)

PASSED March 7, 1992
In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 536

(BY SENATOR BURDETT, 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 following year; and annual financial plans.

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

10 (b) The finance board shall retain the services of an impartial, professional actuary, with demonstrated experience in analysis of large group health insurance plans, to estimate the total financial requirements of the public employees insurance agency for each fiscal year and to review and render written professional opinions as to financial plans proposed by the finance board. The finance board shall also employ the actuary
to develop alternative financing options and to perform such other services as may be requested by the finance board. All reasonable fees and expenses for actuarial services shall be paid by the public employees insurance agency. Any financial plan or modifications to a financial plan approved or proposed by the finance board pursuant to this section shall be submitted to and reviewed by the actuary, and may not be finally approved and submitted to the governor and to the Legislature without the actuary’s written professional opinion that the plan may be reasonably expected to generate sufficient revenues to meet all estimated program and administrative costs of the agency, excluding incurred but unreported claims, for the fiscal year for which the plan is proposed. The actuary’s opinion on the initial plan required by subsection (d) of this section shall allow for a target of forty-five days of accounts payable to be carried over into the next fiscal year. The actuary’s opinion on the financial plan for fiscal year one thousand nine hundred ninety-two shall allow for between thirty and forty-five days of accounts payable to be carried over into the next fiscal year. The actuary’s opinion on the financial plan for any succeeding fiscal year shall allow for no more than thirty days of accounts payable to be carried over into the next fiscal year. The actuary’s opinion for any fiscal year shall not include a requirement for establishment of a reserve fund.

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

(1) Maximum levels of reimbursement which the public employees insurance agency makes to categories of health care providers;
(2) Any necessary cost containment measures for implementation by the director;
(3) The levels of premium costs to participating employers; and
(4) The types and levels of cost to participating employees and retired employees.
The financial plans may provide for different levels of costs based on the insureds' ability to pay. The finance board may establish different levels of costs to retired employees based upon length of employment with a participating employer, ability to pay, or other relevant factors. The financial plans may also include optional alternative benefit plans with alternative types and levels of cost. The finance board may develop policies which encourage the use of West Virginia health care providers.

In addition, the finance board may allocate a portion of the premium costs charged to participating employers to subsidize the cost of coverage for participating retired employees, on such terms as the finance board determines are equitable and financially responsible.

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

Notwithstanding any provision of this article to the contrary, during any meeting authorized by subsection (h) of this section to review implementation of the initial financial plan in light of actual experience, the finance board, in its discretion, may elect to redesign the initial financial plan so that revenues generated will meet all incurred and projected program and administrative costs of the public employees insurance agency by the end of the fiscal year ending on the thirtieth day of June, one thousand nine hundred ninety-two, rather than by the thirtieth day of June, one thousand nine hundred ninety-one. Before implementing any such modifications, the finance board shall obtain a written professional opinion from its actuary stating that the modified plan may be reasonably expected to generate sufficient revenues to meet
all estimated program and administrative costs of the
public employees insurance agency for the remainder
of fiscal year one thousand nine hundred ninety-one
and for fiscal year one thousand nine hundred ninety-
two, allowing for between thirty and forty-five days of
accounts payable to be carried over into fiscal year one
thousand nine hundred ninety-three. The finance
board shall also afford interested and affected persons
an opportunity to offer comment on the modified plan
at a public meeting of the finance board. Regardless of
whether or not the finance board modifies the initial
financial plan as authorized by this subsection, the
finance board shall prepare a financial plan for fiscal
year one thousand nine hundred ninety-two in accor-
dance with subsection (e) of this section.

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

The finance board shall request its actuary to review
the proposed financial plan and to render a written
professional opinion stating whether the plan may be
reasonably expected to generate sufficient revenues to
meet all estimated program and administrative costs of
the public employees insurance agency for the fiscal
year. The actuary's report shall explain the basis of his
or her opinion. If the actuary concludes that the
proposed financial plan will not generate sufficient
revenues to meet all anticipated costs, then the finance
board shall make necessary modifications to the
proposed plan to ensure that all actuarially-
determined financial requirements of the agency will
be met.
Upon obtaining the actuary's opinion and making all necessary modifications to the proposed plan, the finance board shall conduct two or more public hearings to receive public comment on the proposed financial plan, shall review such comments, and shall finalize and approve the financial plan no later than the twentieth day of November, one thousand nine hundred ninety. Employees shall be notified of any changes in the types and levels of employee costs or benefits contained in the financial plan at least thirty days prior to the date of implementation of the financial plan.

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

(e) Plan for fiscal year one thousand nine hundred ninety-two. — No later than the first day of December, one thousand nine hundred ninety, the governor shall prepare and provide to the finance board an estimate of the total amount of general and special revenues which the state will have available to fund the public employees insurance agency and its programs for the fiscal year beginning the first day of July, one thousand nine hundred ninety-one. The finance board shall request its actuary to estimate the total financial requirements of the public employees insurance agency for the fiscal year.

The finance board shall prepare a proposed financial plan designed to generate revenues sufficient to meet all estimated program and administrative costs of the public employees insurance agency for the fiscal year. The proposed financial plan shall allow for between thirty and forty-five days of accounts payable to be carried over into the next fiscal year. Before final adoption of the proposed financial plan, the finance board shall request its actuary to review the plan and to render a written professional opinion stating
whether the plan will generate sufficient revenues to meet all estimated program and administrative costs of the public employees insurance agency for the fiscal year. The actuary's report shall explain the basis of its opinion. If the actuary concludes that the proposed financial plan will not generate sufficient revenues to meet all anticipated costs, then the finance board shall make necessary modifications to the proposed plan to ensure that all actuarially-determined financial requirements of the agency will be met.

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

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

(f) **Annual plans.** — The finance board shall prepare, in the manner provided in subsection (e) of this section, an annual financial plan for fiscal year one thousand nine hundred ninety-three and each fiscal year thereafter during which the finance board remains in existence. Any such financial plan shall be designed to allow thirty days or less of accounts payable to be carried over into the next fiscal year. For each such fiscal year, the governor shall provide his or her estimate of total revenues to the finance board no later than the first day of July of the preceding fiscal year. The finance board shall submit its final, approved financial plan, after obtaining the necessary actuary's opinion and conducting one or more public hearings in each congressional district, to the governor and to the Legislature no later than the
first day of January preceding the fiscal year. The financial plan for a fiscal year shall become effective and shall be implemented by the director on the first day of July of such fiscal year.

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

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

(i) For any fiscal year in which legislative appropriations differ from the governor’s estimate of general and special revenues available to the agency, the finance board shall, within thirty days after passage of the budget bill, make any modifications to the plan necessary to ensure that the total financial requirements of the agency for the current fiscal year are met.

(j) The types and levels of costs to employers, employees and retired employees participating in public employees insurance agency group insurance plans which are currently in effect on the effective date of this article are hereby authorized. The types and levels of costs to employees participating in public employees insurance agency group insurance plans which are currently in effect on the effective date of this article shall remain in effect unless and until changed or authorized to be changed by the finance
board in a financial plan prepared and approved in 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.

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

In the event the public employees insurance agency provides the above benefits for retired employees, their spouses and dependents, the public employees insurance agency shall adopt rules and regulations prescribing the conditions under which retired employees may elect to participate in or withdraw from the plan or plans. Any contract or contracts herein provided for shall be secondary to any hospital, surgical, major medical, prescription drug or other health insurance plan administered by the United States department of health and human services to which the retired employee, spouse or dependent may be eligible under any law or regulation of the United States. If an employee, eligible to participate in the public employees insurance agency plans, is also eligible to participate in the state medicaid program, and chooses to do so, then the public employees insurance agency may transfer to the medicaid program funds to pay the required state share of such employee's participation in medicaid except that the amount transferred may not exceed the amount that would be allocated by the agency to subsidize the cost of coverage for the retired employee if he or she were enrolled in the public employee insurance agency's 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.

(a) The director is hereby authorized to provide under any contract or contracts entered into under the provisions of this article that the costs of any such group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance benefit plan or plans may be paid by the employer and employee. In addition, each employee shall be entitled to have his or her spouse and dependents, as defined by the rules and regulations of the public employees insurance agency, included in any group hospital and surgical insurance, group major medical insurance or group prescription drug insurance coverage: Provided, That such spouse and dependent coverage shall be limited to excess or secondary coverage for each spouse and dependent who has primary coverage from any other source. For purposes of this section, the term “primary coverage” means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder. The director may require proof regarding spouse and dependent primary coverage and shall adopt rules and regulations governing the nature, discontinuance and resumption of any employee's coverage for his or her spouse and dependents.

(b) Should a participating employee be terminated
from employment involuntarily or in reduction of work force, the employee's insurance coverage provided under this article shall continue for a period of three months at no additional cost to the employee: 

Provided, That an employee discharged for misconduct shall not be eligible for extended benefits under this section: Provided, however, That coverage may be extended up to the maximum period of three months, while administrative remedies contesting the charge of misconduct are pursued: Provided further, That should the discharge for misconduct be upheld, the full cost of the extended coverage shall be reimbursed by the employee. If the employee is again employed or recalled to active employment within twelve months of his or her prior termination, he or she shall not be considered a new enrollee and shall not be required to again contribute his or her share of the premium cost, if he or she had already fully contributed such share during the prior period of employment.

(c) Except as otherwise provided in subsection (f) for higher education full-time faculty employed on an annual contract basis other than for twelve months, when a participating employee, who has elected to participate in the plan before the first day of July, one thousand nine hundred eighty-eight, is compelled or required by law to retire before reaching the age of sixty-five, or when a participating employee voluntarily retires as provided by law, that employee's accrued annual leave and sick leave, if any, shall be credited toward an extension of the insurance coverage provided by this article, according to the following formulae: Such insurance coverage for a retired employee shall continue one additional month for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. For a retired employee, his or her spouse and dependents, such insurance coverage shall continue one additional month for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.
(d) Notwithstanding the preceding subsection, except as otherwise provided in subsection (f) for higher education full-time faculty employed on an annual contract basis other than for twelve months, when a participating employee who elects to participate in the plan on and after the first day of July, one thousand nine hundred eighty-eight, is compelled or required by law to retire before reaching the age of sixty-five, or when such a participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one-half of the premium cost of the insurance provided by this article, for periods and scope of coverage determined according to the following formulae: (1) One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or (2) one additional month of coverage for a retiree, his or her spouse and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement. The remaining premium cost shall be borne by such retired employee if he or she elects such coverage. For purposes of this subsection, an employee who has been a participant under spouse or dependent coverage and who reenters the plan within twelve months after termination of his or her prior coverage, shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage. For purposes of this subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after the first day of July, one thousand nine hundred eighty-eight.

(e) In the alternative to the extension of insurance coverage through premium payment provided in the two preceding subsections, on and after the first day of July, one thousand nine hundred eighty-eight, the participating employee's accrued annual leave and sick leave may be applied, on the basis of two days retirement service credit for each one day of accrued annual and sick leave, toward an increase in the employee's
(f) When a participating employee, who is a higher education full-time faculty member employed on an annual contract basis other than for twelve months, is compelled or required by law to retire, on or after the first day of August, one thousand nine hundred eighty-eight, before reaching the age of sixty-five, or when such a participating employee voluntarily retires as provided by law, on or after the first day of August, one thousand nine hundred eighty-eight, that employee's insurance coverage, as provided by this article, shall be extended according to the following formula: Such insurance coverage for a retired higher education full-time faculty member, formerly employed on an annual contract basis other than for twelve months, shall continue beyond the effective date of his or her retirement one additional year for each three and one-third years of teaching service, as determined by uniform guidelines established by the university of West Virginia board of trustees and the board of directors of the state college system, for individual coverage, or one additional year for each five years of teaching service for "family" coverage.

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

(h) All retirees under the provisions of this article, including those defined in section two of this article; those retiring prior to the twenty-first day of April, one thousand nine hundred seventy-two; and those
hereafter retiring shall be eligible for and permitted to obtain health insurance coverage. The retired employee's premium contribution for any such coverage shall be established by the finance board.

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

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

§5-16-15. Optional dental, optical, disability and prepaid retirement plan, and audiology and hearing aid service plan.

On and after the first day of July, one thousand nine hundred eighty-nine, the director shall make available to participants in the public employees insurance system: (1) A dental insurance plan; (2) an optical insurance plan; (3) a disability insurance plan; (4) a prepaid retirement insurance plan; and (5) an audiology and hearing aid services insurance plan. Public employees insurance participants may elect to participate in any one of these plans separately or in combination. Notwithstanding anything in this article to the contrary, all actuarial and administrative costs of each plan shall be totally borne by the premium
payments of the participants or local governing bodies electing to participate in that plan. The director is authorized to employ such administrative practices and procedures with respect to these optional plans as are authorized for the administration of other plans under this article. The director shall establish separate funds: (1) For deposit of dental insurance premiums and payment of dental insurance claims; (2) for deposit of optical insurance premium payments and payment of optical insurance claims; (3) for deposit of disability insurance premium payments and payment of disability insurance claims; and (4) for deposit of audiology and hearing aid service insurance premiums and payment of audiology and hearing aid insurance claims. Such funds shall not be supplemented by nor be used to supplement any other funds.

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

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

For all participants enrolling in the plan after the effective date of this section, no payment shall be made for expenses incurred for or in connection with a preexisting condition unless the expenses are incurred after the expiration of a one-year period during which the participant is continuously participating 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 or special revenue funds or federal funds or any combination thereof shall budget the cost of insurance coverage provided by the public employees insurance agency to current and retired employees of the employer as a separate line item, titled "PEI", in its respective annual budget and shall be responsible for the transfer of funds to the director for the cost of insurance for employees covered by the plan. Each spending unit shall pay to the director its proportionate share from each source of funds. Any agency wishing to charge general revenue funds for insurance benefits for retirees under section thirteen of this article must provide documentation to the director that such benefits cannot be paid for by any special revenue account or that the retiring employee has been paid solely with general revenue funds for twelve months prior to retirement.

19 Should the general revenue appropriation for any employer, including a county board of education, be insufficient to cover the cost of insurance coverage for such employer's participating employees, retired employees and surviving dependents, the employer shall pay the reminder of such cost from its "personal services" or "unclassified" line items or, in the case of a county board of education, from other funds: Provided, That local excess levy funds shall be used only for the purposes for which they were raised: Provided, however, That after approval of its annual financial plan but in no event later than the thirty-first day of December of each year, the finance board shall notify the Legislature and county boards of education of the maximum amount of employer premiums that the county boards of education will be required to pay for covered employees during the following fiscal year: Provided further, That said amount shall not exceed five million dollars during fiscal year one thousand nine hundred ninety-three: And provided further,
That the finance board and department of education shall determine the extent to which state school aid appropriations are being used by the county school boards to pay employer premiums for employees whose positions are not funded by state revenues and shall develop and implement a plan to minimize such expenditures.

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

The contribution of such other employers (namely: a county, city or town in the state; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive community mental health center or comprehensive mental retardation facility established, operated or licensed by the secretary of health and human resources pursuant to section one, article two-a, chapter twenty-seven of this code, and which is supported in part by state, county or municipal funds; and a combined city-county health department created pursuant to article two, chapter sixteen of the code) for their employees shall be such percentage of the cost of the employees’ insurance package as the employers deem reasonable and proper under their own particular circumstances.

The employee’s proportionate share of the premium or cost shall be withheld or deducted by the employer from such employee’s salary or wages as and when paid and such sums shall be forwarded to the director with such supporting data as the director may require.
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79 All moneys received by the public employees insurance agency shall be deposited in a special fund or funds as are necessary in the state treasury and the treasurer of the state shall be custodian of such fund or funds and shall administer such fund or funds in accordance with the provisions of this article or as the director may from time to time direct. The treasurer shall pay all warrants issued by the state auditor against such fund or funds as the director may direct in accordance with the provisions of this article. On and after the first day of July, one thousand nine hundred eighty-eight, all payments previously required to be made to the public employees insurance board shall be made to the public employees insurance agency.

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

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

2 Those employees enrolled in the insurance program authorized under the provisions of article two-b, chapter twenty-one-a of this code shall not be required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost thereof may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but any such employee or employer shall not remain enrolled in both such programs. The provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of this code, relating to group life insurance shall not be mandatory upon any employee or employer who is not an employee of or is not the state of West Virginia, its boards, agencies, commissions, departments, institutions or spending units or a county board of education, and nothing contained in this article shall be construed so as to compel any employee or employer to enroll in or subscribe to any insurance plan authorized by the provisions of this article.

3 Those employees enrolled in the insurance program authorized under the provisions of article two-b, chapter twenty-one-a of this code shall not be required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost thereof may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but any such employee or employer shall not remain enrolled in both such programs. The provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of this code, relating to group life insurance shall not be mandatory upon any employee or employer who is not an employee of or is not the state of West Virginia, its boards, agencies, commissions, departments, institutions or spending units or a county board of education, and nothing contained in this article shall be construed so as to compel any employee or employer to enroll in or subscribe to any insurance plan authorized by the provisions of this article.
insurance, accident and sickness insurance, and group
accident and sickness insurance, shall not be applicable
to the provisions of this article whenever the provi-
sions of said articles and chapter are in conflict with
or contrary to any provision set forth herein or to any
plan or plans established by the public employees
insurance agency.

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

Any employer, whether such employer participates
in the public employees insurance agency insurance
program as a group or not, which has retired
employees, their dependents, or surviving dependents
of deceased retired employees who participate in the
public employees insurance agency insurance program
as authorized by this article, shall pay to the agency
the same contribution toward the cost of coverage for
its retired employees, their dependents, or surviving
dependents of deceased retired employees as the state
of West Virginia, its boards, agencies, commissions,
departments, institutions, spending units, or a county
board of education pay for their retired employees,
their dependents, and surviving dependents of
deceased retired employees, as determined by the
finance board. Each employer is hereby authorized
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.

The director shall promulgate such rules and regu-
lations as may be required for the effective administration of the provisions of this article. Except as specifically provided in subsection (e), section four of this article, all rules and regulations of the public employees insurance agency and all hearings held by the public employees insurance agency shall be exempt from the provisions of chapter twenty-nine-a of this code. Any rules and regulations now in existence promulgated by the public employees insurance board or director shall remain in full force and effect until they are amended or replaced by the director.

Such regulations shall provide that any employee of the state who has been compelled or required by law to retire before reaching the age of sixty-five years shall be eligible to participate in the public employees' health insurance program at the premium contribution established by the finance board after any extended coverage to which he or she, his or her spouse and dependents may be entitled by virtue of his or her accrued annual leave or sick leave, pursuant to the provisions of section thirteen of this article, has expired. Any employee who voluntarily retires, as provided by law, shall be eligible to participate in the public employees' health insurance program at the premium contribution established by the finance board after any extended coverage to which he or she, his or her spouse and dependents may be entitled by virtue of his or her accrued annual leave or sick leave, pursuant to the provisions of section thirteen of this article, has expired. The dependents of any deceased retired employee shall be entitled to continue their participation and coverage upon payment of the premium contribution established by the finance board. In establishing the cost of health insurance coverage for retired employees and their spouses and dependents, the finance board, in its discretion, may cause the claims experience of such retired employees and their spouses and dependents to be rated separately from that of active employees and their spouses and dependents, or may cause the claims experience of retired and active employees, and their spouses and dependents, to be rated together.
Any employee who is on a medical leave of absence, approved by his or her employer, shall, subject to the following provisions of this paragraph, be entitled to continue his or her coverage until he or she returns to his or her employment, and such employee and employer shall continue to pay their proportionate share of premium costs as provided by this article: Provided, That the employer shall be obligated to pay its proportionate share of the premium cost only for a period of one year: Provided, however, That during the period of such leave of absence, the employee shall, at least once each month, submit to the employer the statement of a qualified physician certifying that the employee is unable to return to work.

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

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.


Nothing in this article shall be construed to limit the ability of county boards of education to use funds appropriated to county boards of education pursuant to this article to pay employer premiums to the public employees insurance agency for employees whose positions are funded pursuant to this article. Funds appropriated to county boards of education pursuant to this article shall not be used to pay employer premiums for employees of such boards whose positions are not, or will not be within twenty months, funded by 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 ...........................

day of ..........................................., 1992.

Governor