WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1998

ENROLLED

SENATE BILL NO. 772

(By Senator ____________)

PASSED ________________ 1998
In Effect From ____________ Passage
AN ACT to amend and reenact sections three and five, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to employment of a deputy director; and the submission of the financial statements and financial plans.

Be it enacted by the Legislature of West Virginia:

That sections three and five, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-3. Public employees insurance agency continued; appointment, qualification, compensation and duties of director of agency; employees; civil service coverage; director vested after specified date with powers of public employees insurance board; expiration of agency.
(a) The public employees insurance agency is continued, and consists of the director, the finance board, the advisory board and any employees who may be authorized by law. The director shall be appointed by the governor, with the advice and consent of the Senate. He or she shall serve at the will and pleasure of the governor, unless earlier removed from office for cause as provided by law. The director shall have at least three years' experience in health insurance administration prior to appointment as director. The director shall receive an annual salary established by the governor not to exceed sixty-five thousand dollars and actual expenses incurred in the performance of official business. The director shall employ such administrative, technical and clerical employees as are required for the proper administration of the insurance programs provided for in this article. The director shall perform such duties as are required of him or her under the provisions of this article and is the chief administrative officer of the public employees insurance agency. The director may employ a deputy director: Provided, That the director shall report each year to the joint committee on government and finance on the agency's total contract costs for consultant contracts and the costs of the deputy director's position for the fiscal years one thousand nine hundred ninety-eight through two thousand.

(b) All positions in the agency, except for the director, his or her personal secretary, the deputy director and the chief financial officer shall be included in the classified service of the civil service system pursuant to article six, chapter twenty-nine of this code. Any person required to be included in the classified service by the provisions of this subsection who was employed in any of the positions included in this subsection on or after the effective date of this article shall not be required to take and pass qualifying or competitive examinations upon or as a condition to
being added to the classified service: Provided, That no person required to be included in the classified service by the provisions of this subsection who was employed in any of the positions included in this subsection as of the effective date of this section shall be thereafter severed, removed or terminated in his or her employment prior to his or her entry into the classified service except for cause as if the person had been in the classified service when severed, removed or terminated.

(c) The director is responsible for the administration and management of the public employees insurance agency as provided for in this article and in connection with his or her responsibility shall have the power and authority to make all rules necessary to effectuate the provisions of this article. Nothing in section four or five of this article shall limit the director’s ability to manage on a day-to-day basis the group insurance plans required or authorized by this article, including, but not limited to, administrative contracting, studies, analyses and audits, eligibility determinations, utilization management provisions and incentives, provider negotiations, provider contracting and payment, designation of covered and noncovered services, offering of additional coverage options or cost containment incentives, pursuit of coordination of benefits and subrogation, or any other actions which would serve to implement the plan or plans designed by the finance board.

(d) The public employees insurance agency shall terminate in the manner provided in article ten, chapter four of this code, on the first day of July, two thousand one, unless extended by legislation enacted before the termination date: Provided, That the public employees insurance agency advisory board, created in section six of this article, shall terminate in the manner provided in article ten, chapter four of this code on the first day of July, one thousand nine hundred ninety-six.
§5-16-5. Purpose, powers and duties of the finance board; initial financial plan; financial plan for following year; and annual financial plans.

(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.

(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.
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 accordance 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 administrative 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 unreported 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
effect that all actuarially-determined financial require-
ments of the agency will be met.

Upon obtaining the actuary’s opinion, the finance board
shall conduct one or more public hearings in each congres-
sional 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 imple-
mented 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 imple-
mented by the director on the first day of July of such
fiscal year. In addition to each final, approved financial
plan required under this section, the finance board shall
also simultaneously submit financial statements based on

generally accepted accounting practices (GAAP) and the
final, approved plan restated on an accrual basis of
accounting, which shall include allowances for incurred
but not reported claims: Provided, That the financial
statements and the accrual-based financial plan restate-
ment shall not affect the approved financial plan.

(g) The provisions of chapter twenty-nine-a of this code
shall not apply to the preparation, approval and imple-
mentation 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 em-
ployees 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 cur-
rently 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.
That 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 approved this the 

day of , 1998.

Governor