

RECEIVED

98 APR -2 AM 10:24

OFFICE OF WEST VIRGINIA
GOVERNMENT STAFF

SB 772

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

SENATE BILL NO. 772

(By Senator PLYMALE, ET AL)



PASSED MARCH 13, 1998
In Effect From Passage

RECEIVED

98 APR -2 AM 10 24

OFFICE OF THE CLERK
OF THE SENATE

ENROLLED

Senate Bill No. 772

(BY SENATORS PLYMALE, WALKER, CRAIGO, FANNING,
JACKSON, HELMICK AND MINEAR)

[Passed March 13, 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.

1 (a) The public employees insurance agency is continued,
2 and consists of the director, the finance board, the advi-
3 sory board and any employees who may be authorized by
4 law. The director shall be appointed by the governor, with
5 the advice and consent of the Senate. He or she shall serve
6 at the will and pleasure of the governor, unless earlier
7 removed from office for cause as provided by law. The
8 director shall have at least three years' experience in
9 health insurance administration prior to appointment as
10 director. The director shall receive an annual salary
11 established by the governor not to exceed sixty-five
12 thousand dollars and actual expenses incurred in the
13 performance of official business. The director shall
14 employ such administrative, technical and clerical em-
15 ployees as are required for the proper administration of
16 the insurance programs provided for in this article. The
17 director shall perform such duties as are required of him
18 or her under the provisions of this article and is the chief
19 administrative officer of the public employees insurance
20 agency. The director may employ a deputy director:
21 *Provided*, That the director shall report each year to the
22 joint committee on government and finance on the
23 agency's total contract costs for consultant contracts and
24 the costs of the deputy director's position for the fiscal
25 years one thousand nine hundred ninety-eight through
26 two thousand.

27 (b) All positions in the agency, except for the director,
28 his or her personal secretary, the deputy director and the
29 chief financial officer shall be included in the classified
30 service of

31 the civil service system pursuant to article six, chapter
32 twenty-nine of this code. Any person required to be
33 included in the classified service by the provisions of this
34 subsection who was employed in any of the positions
35 included in this subsection on or after the effective date of
36 this article shall not be required to take and pass qualify-
37 ing or competitive examinations upon or as a condition to

38 being added to the classified service: *Provided*, That no
39 person required to be included in the classified service by
40 the provisions of this subsection who was employed in any
41 of the positions included in this subsection as of the
42 effective date of this section shall be thereafter severed,
43 removed or terminated in his or her employment prior to
44 his or her entry into the classified service except for cause
45 as if the person had been in the classified service when
46 severed, removed or terminated.

47 (c) The director is responsible for the administration and
48 management of the public employees insurance agency as
49 provided for in this article and in connection with his or
50 her responsibility shall have the power and authority to
51 make all rules necessary to effectuate the provisions of
52 this article. Nothing in section four or five of this article
53 shall limit the director's ability to manage on a
54 day-to-day basis the group insurance plans required or
55 authorized by this article, including, but not limited to,
56 administrative contracting, studies, analyses and audits,
57 eligibility determinations, utilization management
58 provisions and incentives, provider negotiations, provider
59 contracting and payment, designation of covered and
60 noncovered services, offering of additional coverage
61 options or cost containment incentives, pursuit of coordi-
62 nation of benefits and subrogation, or any other actions
63 which would serve to implement the plan or plans de-
64 signed by the finance board.

65 (d) The public employees insurance agency shall termi-
66 nate in the manner provided in article ten, chapter four of
67 this code, on the first day of July, two thousand one,
68 unless extended by legislation enacted before the termina-
69 tion date: *Provided*, That the public employees insurance
70 agency advisory board, created in section six of this
71 article, shall terminate in the manner provided in article
72 ten, chapter four of this code on the first day of July, one
73 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.

1 (a) The purpose of the finance board created by this
2 article is to bring fiscal stability to the public employees
3 insurance agency through development of an annual
4 financial plan designed to meet the agency's estimated
5 total financial requirements, taking into account all
6 revenues projected to be made available to the agency, and
7 apportioning necessary costs equitably among participat-
8 ing employers, employees and retired employees and
9 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 the
14 public employees insurance agency for each fiscal year
15 and to review and render written professional opinions as
16 to financial plans proposed by the finance board. The
17 finance board shall also employ the actuary to develop
18 alternative financing options and to perform such other
19 services as may be requested by the finance board. All
20 reasonable fees and expenses for actuarial services shall
21 be paid by the public employees insurance agency. Any
22 financial plan or modifications to a financial plan ap-
23 proved or proposed by the finance board pursuant to this
24 section shall be submitted to and reviewed by the actuary,
25 and may not be finally approved and submitted to the
26 governor and to the Legislature without the actuary's
27 written professional opinion that the plan may be reason-
28 ably expected to generate sufficient revenues to meet all
29 estimated program and administrative costs of the agency,
30 excluding incurred but unreported claims, for the fiscal
31 year for which the plan is proposed. The actuary's opinion
32 on the initial plan required by subsection (d) of this
33 section shall allow for a target of forty-five days of
34 accounts payable to be carried over into the next fiscal

35 year. The actuary's opinion on the financial plan for fiscal
36 year one thousand nine hundred ninety-two shall allow
37 for between thirty and forty-five days of accounts payable
38 to be carried over into the next fiscal year. The actuary's
39 opinion on the financial plan for any succeeding fiscal
40 year shall allow for no more than thirty days of accounts
41 payable to be carried over into the next fiscal year. The
42 actuary's opinion for any fiscal year shall not include a
43 requirement for establishment of a reserve fund.

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

47 (1) Maximum levels of reimbursement which the public
48 employees insurance agency makes to categories of health
49 care providers;

50 (2) Any necessary cost containment measures for imple-
51 mentation by the director;

52 (3) The levels of premium costs to participating employ-
53 ers; and

54 (4) The types and levels of cost to participating employ-
55 ees and retired employees.

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

65 In addition, the finance board may allocate a portion of
66 the premium costs charged to participating employers to
67 subsidize the cost of coverage for participating retired
68 employees, on such terms as the finance board determines

69 are equitable and financially responsible.

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

80 Notwithstanding any provision of this article to the
81 contrary, during any meeting authorized by subsection (h)
82 of this section to review implementation of the initial
83 financial plan in light of actual experience, the finance
84 board, in its discretion, may elect to redesign the initial
85 financial plan so that revenues generated will meet all
86 incurred and projected program and administrative costs
87 of the public employees insurance agency by the end of the
88 fiscal year ending on the thirtieth day of June, one thou-
89 sand nine hundred ninety-two, rather than by the thirtieth
90 day of June, one thousand nine hundred ninety-one.
91 Before implementing any such modifications, the finance
92 board shall obtain a written professional opinion from its
93 actuary stating that the modified plan may be reasonably
94 expected to generate sufficient revenues to meet all
95 estimated program and administrative costs of the public
96 employees insurance agency for the remainder of fiscal
97 year one thousand nine hundred ninety-one and for fiscal
98 year one thousand nine hundred ninety-two, allowing for
99 between thirty and forty-five days of accounts payable to
100 be carried over into fiscal year one thousand nine hundred
101 ninety-three. The finance board shall also afford inter-
102 ested and affected persons an opportunity to offer com-
103 ment on the modified plan at a public meeting of the
104 finance board. Regardless of whether or not the finance
105 board modifies the initial financial plan as authorized by

106 this subsection, the finance board shall prepare a financial
107 plan for fiscal year one thousand nine hundred ninety-two
108 in accordance with subsection (e) of this section.

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

121 The finance board shall request its actuary to review the
122 proposed financial plan and to render a written profes-
123 sional opinion stating whether the plan may be reasonably
124 expected to generate sufficient revenues to meet all
125 estimated program and administrative costs of the public
126 employees insurance agency for the fiscal year. The
127 actuary's report shall explain the basis of his or her
128 opinion. If the actuary concludes that the proposed
129 financial plan will not generate sufficient revenues to
130 meet all anticipated costs, then the finance board shall
131 make necessary modifications to the proposed plan to
132 ensure that all actuarially-determined financial require-
133 ments of the agency will be met.

134 Upon obtaining the actuary's opinion and making all
135 necessary modifications to the proposed plan, the finance
136 board shall conduct two or more public hearings to receive
137 public comment on the proposed financial plan, shall
138 review such comments, and shall finalize and approve the
139 financial plan no later than the twentieth day of Novem-
140 ber, one thousand nine hundred ninety. Employees shall
141 be notified of any changes in the types and levels of

142 employee costs or benefits contained in the financial plan
143 at least thirty days prior to the date of implementation of
144 the financial plan.

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

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

162 The finance board shall prepare a proposed financial
163 plan designed to generate revenues sufficient to meet all
164 estimated program and administrative costs of the public
165 employees insurance agency for the fiscal year. The
166 proposed financial plan shall allow for between thirty and
167 forty-five days of accounts payable to be carried over into
168 the next fiscal year. Before final adoption of the proposed
169 financial plan, the finance board shall request its actuary
170 to review the plan and to render a written professional
171 opinion stating whether the plan will generate sufficient
172 revenues to meet all estimated program and administra-
173 tive costs of the public employees insurance agency for the
174 fiscal year. The actuary's report shall explain the basis of
175 its opinion. If the actuary concludes that the proposed
176 financial plan will not generate sufficient revenues to
177 meet all anticipated costs, then the finance board shall

178 make necessary modifications to the proposed plan to
179 ensure that all actuarially-determined financial require-
180 ments of the agency will be met.

181 Upon obtaining the actuary's opinion, the finance board
182 shall conduct one or more public hearings in each congres-
183 sional district to receive public comment on the proposed
184 financial plan, shall review such comments, and shall
185 finalize and approve the financial plan.

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

194 (f) *Annual plans.* — The finance board shall prepare, in
195 the manner provided in subsection (e) of this section, an
196 annual financial plan for fiscal year one thousand nine
197 hundred ninety-three and each fiscal year thereafter
198 during which the finance board remains in existence. Any
199 such financial plan shall be designed to allow thirty days
200 or less of accounts payable to be carried over into the next
201 fiscal year. For each such fiscal year, the governor shall
202 provide his or her estimate of total revenues to the finance
203 board no later than the first day of July of the preceding
204 fiscal year. The finance board shall submit its final,
205 approved financial plan, after obtaining the necessary
206 actuary's opinion and conducting one or more public
207 hearings in each congressional district, to the governor
208 and to the Legislature no later than the first day of
209 January preceding the fiscal year. The financial plan for
210 a fiscal year shall become effective and shall be imple-
211 mented by the director on the first day of July of such
212 fiscal year. In addition to each final, approved financial
213 plan required under this section, the finance board shall

214 also simultaneously submit financial statements based on
215 generally accepted accounting practices (GAAP) and the
216 final, approved plan restated on an accrual basis of
217 accounting, which shall include allowances for incurred
218 but not reported claims: *Provided*, That the financial
219 statements and the accrual-based financial plan restate-
220 ment shall not affect the approved financial plan.

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

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

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

243 (j) The types and levels of costs to employers, employees
244 and retired employees participating in public employees
245 insurance agency group insurance plans which are cur-
246 rently in effect on the effective date of this article are
247 hereby authorized. The types and levels of costs to
248 employees participating in public employees insurance
249 agency group insurance plans which are currently in effect

250 on the effective date of this article shall remain in effect
251 unless and until changed or authorized to be changed by
252 the finance board in a financial plan prepared and ap-
253 proved in accordance with this section.

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

Randy Skoone
.....
Chairman Senate Committee.

Nick Tentas
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Carroll Abner
.....
Clerk of the Senate

Bryon M. Gray
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Phil
.....
Speaker House of Delegates

The within *approved* this the *1st*
day of *April*, 1998.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/98

Time 9:25 am