WEST VIRGINIA LEGISLATURE
1st Extraordinary Session, 2001

ENROLLED

SENATE BILL NO. 1003

(By Senators Plymale and Tomblin, Mr. President)

PASSED April 23, 2001

In Effect from Passage
ENROLLED

Senate Bill No. 1003

(BY SENATORS PLYMALE AND TOMBLIN, MR. PRESIDENT)

[Passed April 23, 2001; in effect from passage.]

AN ACT to amend and reenact section five, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the public employees insurance agency; and providing for an allocation of aggregate premium percentages between employers and employees in the financial plans of the agency.

Be it enacted by the Legislature of West Virginia:

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

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 annual financial
plans and long-range plans 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 particip-
ating 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
actuary shall also assist in the development of alternative
financing options and perform any other services re-
quested by the finance board or the director. All reason-
able 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 profes-
sional opinion that the plan may be reasonably expected
to generate sufficient revenues to meet all estimated
program and administrative costs of the agency, including
incurred but unreported claims, for the fiscal year for
which the plan is proposed. The actuary's opinion on the
financial plan for each 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 establish-
ment of a reserve fund.

(c) All financial plans required by this section 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)(1) The finance board shall prepare an annual financial plan for each fiscal year during which the finance board remains in existence. The finance board chairman shall request the actuary to estimate the total financial requirements of the public employees insurance agency for the fiscal year.

(2) 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 no more than thirty
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 the 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.

(3) 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.

(4) Any 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 fiscal year, the governor shall provide his or her estimate of total revenues to the finance board no later than the fifteenth day of October of the preceding fiscal year: Provided, That, for the prospective financial plans required by this section, the governor shall estimate the revenues available for each fiscal year of the plans based on the estimated percentage of growth in general fund revenues. 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 becomes effective and shall be implemented by the director on the first day of July of the fiscal year. In addition to each final, approved financial plan required
under this section, the finance board shall also simulta-
neously 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, however, That the financial
statements and the accrual-based financial plan restatement
shall not affect the approved financial plan.

(e) 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.

(f) Beginning on the first day of January, two thousand,
and every year thereafter, the finance board shall submit
to the governor and the Legislature a prospective financial
plan, for a period not to exceed five years, for the pro-
gress provided for in this article. Factors that the board
shall consider include, but shall not be limited to, the
trends for the program and the industry; the medical rate
of inflation; utilization patterns; cost of services; and
specific information such as average age of employee
population, active to retiree ratios, the service delivery
system and health status of the population.

(g) The prospective financial plans shall be based on the
estimated revenues submitted in accordance with subdivi-
sion (4), subsection (d) of this section and shall include an
average of the projected cost-sharing percentages of
premiums and an average of the projected deductibles and
copays for the various programs. Beginning in the plan
year which commences on the first day of July, two
thousand two, and in each plan year thereafter, until and
including the plan year which commences on the first day
of July, two thousand six, the prospective plans shall
include incremental adjustments toward the ultimate level
required in this subsection in the aggregate cost-sharing
percentages of premium between employers and employ-
ees. Effective in the plan year commencing on the first day
of July, two thousand six, and in each plan year thereafter,
the aggregate premium cost-sharing percentages between employers and employees shall be at a level of eighty percent for the employer and twenty percent for employees, except for the employers provided for in subsection (d), section eighteen of this article whose premium cost-sharing percentages shall be governed by that subsection.

After the submission of the initial prospective plan, the board may not increase costs to the participating employers or change the average of the premiums, deductibles and copays for employees, except in the event of a true emergency as provided for in this section: Provided, That if the board invokes the emergency provisions, the cost shall be borne between the employers and employees in proportion to the cost-sharing ratio for that plan year: Provided, however, That for purposes of this section, “emergency” means that the most recent projections demonstrate that plan expenses will exceed plan revenues by more than one percent in any plan year.

(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.
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 [was approved] this the 10th Day of [Mary] 2001.

Governor