SENATE BILL NO. 3003

(By Senators Tomblin, Mr. President, and Spruill—
By Request of the Executive)

PASSED May 17, 2005

In Effect July 8, 2005—Passage
ENROLLED

Senate Bill No. 3003

(By Senators Tomblin, Mr. President, and Sprouse,
By Request of the Executive)

[Passed May 17, 2005; to take effect July 8, 2005.]

AN ACT to amend and reenact §5-16-5 of the Code of West
Virginia, 1931, as amended, relating generally to the subsidiza-
tion of active and retired state pool employees’ public
employees insurance premiums; authorizing subsidization of
a portion of the aggregate cost-sharing percentages of
premium between employers and active employees for a
limited period by use of certain insurance policy surcharges;
and authorizing subsidization of incremental costs for retired
state pool employees from a reserve fund of the Public
Employees Insurance Agency.

Be it enacted by the Legislature of West Virginia:

That §5-16-5 of the Code of West Virginia, 1931, 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.
(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 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 actuary shall also assist in the development of alternative financing options and perform any other services requested by the Finance Board or the Director. 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, 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 establishment 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 neces-
sary 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 implementation of the financial plans required by this section.

(f) By the first day of January of each year 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 programs provided in this article. Factors that the Board shall consider include, but are not 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 subdivision (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 employees: Provided, That for the period beginning the first day of July, two thousand five, through the thirty-first day of December, two thousand five, the portion of the policy surcharge collected from certain fire and casualty insurers and transferred into the fund in the State Treasury of the
Public Employees Insurance Agency pursuant to the provisions of section thirty-three, article three, chapter thirty-three of this code shall be used, in lieu of an increase in costs to active state pool employees, to subsidize any incremental adjustment in those employees' portion of the aggregate cost-sharing percentages of premium between employers and employees. The foregoing does not prohibit any premium increase occasioned by an employee's increase in salary: Provided, however, That for the period beginning the first day of July, two thousand five, through the thirty-first day of December, two thousand five, in lieu of an increase in costs to retired state pool employees, such funds as are necessary to subsidize any increase in costs to retired state pool employees shall be transferred from the reserve fund established in section twenty-five of this article into the fund in the State Treasury of the Public Employees Insurance Agency. 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 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 in this section: Provided further, 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: And provided further, 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 Finance 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.

To take effect July 8, 2005.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

Governor
PRESENTED TO THE GOVERNOR

MAY 25 2005

Time 4:30 PM