WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 129

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

[Passed March 10, 2007; to take effect July 1, 2007.]
AN ACT to amend and reenact §5-16-2, §5-16-5, §5-16-7 and §5-16-25 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-16D-1 and §5-16D-6 of said code; and to amend and reenact §18A-1-1 of said code, all relating to Public Employees Insurance Agency; expanding insurance coverage eligibility to include certain substitute employees; expanding coverage to include certain procedures; clarifying certain eligibility provision; requiring continued insurance coverage for Medicare eligible retired employees; modifying treatment of reserve fund balances; modifying treatment of certain portions of required employer annual payments; modifying certain employer annual required contribution provisions; making technical corrections; and deleting obsolete provisions.
Be it enacted by the Legislature of West Virginia:

That §5-16-2, §5-16-5, §5-16-7 and §5-16-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §5-16D-1 and §5-16D-6 of said code be amended and reenacted; and that §18A-1-1 of said code be amended and reenacted, 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.

§5-16-2. Definitions.

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) "Agency" means the Public Employees Insurance Agency created by this article.

(2) "Director" means the Director of the Public Employees Insurance Agency created by this article.

(3) "Employee" means any person, including an elected officer, who works regularly full time in the service of the State of West Virginia and, for the purpose of this article only, the term "employee" also means any person, including an elected officer, who works regularly full time in the service of a county board of education; 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; any person who works regularly full time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in section two, article one, chapter eighteen-b of this code; any person who works regularly full time in the service of a combined city-county health department created pursuant to article two, chapter sixteen of this code; and any person who works as a long term substitute as defined in section one, article one, chapter eighteen-a of this code, in the service of a county board of education: Provided, That a long-term substitute who is continuously employed for at least one hundred thirty-three instructional days during an instructional term, and until the end of that instructional term, is eligible for the benefits provided in this article until the first day of September following that instructional term: Provided, however, That a long-term substitute employed fewer than one hundred thirty-three instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long term substitute. On and after the first day of January, one thousand nine hundred ninety-four, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an “employee” during the term of office of the elected member: Provided further, That the elected member shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after the first day of July, one thousand nine hundred ninety-seven, a person shall be considered an “employee” if that person meets the following criteria:

(i) Participates in a job-sharing arrangement as defined in section one, article one, chapter eighteen-a of this code;
(ii) Has been designated, in writing, by all other participants in that job-sharing arrangement as the “employee” for purposes of this section; and

(iii) Works at least one third of the time required for a full-time employee.

(4) “Employer” means the State of West Virginia, its boards, agencies, commissions, departments, institutions or spending units; a county board of education; 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 this code. Any matters of doubt as to who is an “employer” within the meaning of this article shall be decided by the director. The term “employer” does not include within its meaning the National Guard.

(5) “Finance board” means the Public Employees Insurance Agency finance board created by this article.

(6) “Person” means any individual, company, association, organization, corporation or other legal entity, including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.

(7) “Plan”, unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option or the group life insurance plan offered by
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(8) "Retired employee" means an employee of the state who retired after the twenty-ninth day of April, one thousand nine hundred seventy-one, and an employee of the University of West Virginia Board of Trustees or the board of directors of the state college system or a county board of education who retires on or after the twenty-first day of April, one thousand nine hundred seventy-two, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system and whose last employer immediately prior to retirement under the state retirement system is a participating employer: Provided, That for the purposes of this article, the employees who are not covered by a state retirement system but who are covered by a state-approved or a state-contracted retirement system shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System.

§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 the 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 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, 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, including the amounts of any subsidization of retired employee benefits. 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, including the amounts of any subsidization of retired employee benefits, 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, 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: Provided further, That the aggregate premium cost-sharing percentages between employers and employees, including the amounts of any subsidization of retired employee benefits, may be offset, in part, by a legislative appropriation for that purpose.

(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.

§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan and group life and accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.

(a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans and a group life and accidental death insurance plan or plans for those employees herein made eligible and establish and promulgate rules for the administration of these plans, subject to the limitations contained in this article. Those plans shall include:

(1) Coverages and benefits for X-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-
based cytology, whichever is medically appropriate and
consistent with the current guidelines from either the
United States Preventive Services Task Force or The
American College of Obstetricians and Gynecologists;
and a test for the human papilloma virus (HPV) when
medically appropriate and consistent with current
guidelines from either the United States Preventive
Services Task Force or The American College of
Obstetricians and Gynecologists, when performed for
cancer screening or diagnostic services on a woman age
eighteen or over;

(2) Annual checkups for prostate cancer in men age
fifty and over;

(3) Annual screening for kidney disease as determined
to be medically necessary by a physician using any
combination of blood pressure testing, urine albumin or
urine protein testing and serum creatinine testing as
recommended by the National Kidney Foundation;

(4) For plans that include maternity benefits, coverage
for inpatient care in a duly licensed health care facility
for a mother and her newly born infant for the length of
time which the attending physician considers medically
necessary for the mother or her newly born child:
Provided, That a plan may not deny payment for a
mother or her newborn child prior to forty-eight hours
following a vaginal delivery, or prior to ninety-six hours
following a caesarean section delivery, if the attending
physician considers discharge medically inappropriate;

(5) For plans which provide coverages for
post-delivery care to a mother and her newly born child
in the home, coverage for inpatient care following
childbirth as provided in subdivision (4) of this
subsection if inpatient care is determined to be
medically necessary by the attending physician. Those
plans may also include, among other things, medicines,
medical equipment, prosthetic appliances, and any
other inpatient and outpatient services and expenses
considered appropriate and desirable by the agency;
and

(6) Coverage for treatment of serious mental illness.
(A) The coverage does not include custodial care, residential care or schooling. For purposes of this section, "serious mental illness" means an illness included in the American psychiatric association's diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v) anxiety disorders; and (vi) anorexia and bulimia. With regard to any covered individual who has not yet attained the age of nineteen years, "serious mental illness" also includes attention deficit hyperactivity disorder, separation anxiety disorder and conduct disorder.

(B) Notwithstanding any other provision in this section to the contrary, in the event that the agency can demonstrate actuarially that its total anticipated costs for the treatment of mental illness for any plan will exceed or have exceeded two percent of the total costs for such plan in any experience period, then the agency may apply whatever cost containment measures may be necessary, including, but not limited to, limitations on inpatient and outpatient benefits, to maintain costs below two percent of the total costs for the plan.

(C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness, and it may use recognized health care quality and cost management tools, including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks and using patient cost sharing in the form of copayments, deductibles and coinsurance.
(b) The agency shall make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent; and with full authorization to the agency to make the optional coverage available and provide an opportunity of purchase to each employee.

(c) The finance board may cause to be separately rated for claims experience purposes:

(1) All employees of the State of West Virginia;

(2) All teaching and professional employees of state public institutions of higher education and county boards of education;

(3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education and county boards of education; or

(4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare-eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. In the event that a Medicare-specific plan would no longer be available or advantageous for the agency and the retirees, the retirees shall remain eligible for coverage through the agency.

§5-16-25. Reserve fund.

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for
the purposes of offsetting unanticipated claim losses in any fiscal year. Beginning with the fiscal year two thousand two plan and for each succeeding fiscal year plan, the finance board shall transfer ten percent of the projected total plan costs for that year into the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature in accordance with the provisions of this article. Any moneys saved in a plan year shall be transferred into the reserve fund. At the close of any fiscal year in which the balance in the reserve fund exceeds the recommended reserve amount by fifteen percent, the executive director shall transfer that amount to the West Virginia Retiree Health Benefit Trust Fund created in section two, article sixteen-d of this chapter.

ARTICLE 16D. WEST VIRGINIA RETIREMENT HEALTH BENEFIT TRUST FUND.

§5-16D-1. Definitions.

As used in this article, the term:

(a) “Actuarial accrued liability” means that portion, as determined by a particular actuarial cost method, of the actuarial present value of fund obligations and administrative expenses which is not provided by future normal costs.

(b) “Actuarial cost method” means a method for determining the actuarial present value of the obligations and administrative expenses of the fund and for developing an actuarially equivalent allocation of the value to time periods, usually in the form of a normal cost and an actuarial accrued liability. Acceptable actuarial methods are the aggregate, attained age, entry age, frozen attained age, frozen entry age and projected unit credit methods.

(c) “Actuarially sound” means that calculated contributions to the fund are sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded actuarial accrued liability over
(d) "Actuarial present value of total projected benefits" means the present value, at the valuation date, of the cost to finance benefits payable in the future, discounted to reflect the expected effects of the time value of money and the probability of payment.

(e) "Actuarial assumptions" means assumptions regarding the occurrence of future events affecting the fund such as mortality, withdrawal, disability and retirement; changes in compensation and offered post-employment benefits; rates of investment earnings and other asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other relevant items.

(f) "Actuarial valuation" means the determination, as of a valuation date, of the normal cost, actuarial accrued liability, actuarial value of assets and related actuarial present values for the fund.

(g) "Administrative expenses" means all expenses incurred in the operation of the fund, including all investment expenses.

(h) "Annual required contribution" means the amount employers must contribute in a given year to fully fund the trust, as determined by the actuarial valuation in accordance with requirements of generally accepted accounting principles. This amount shall represent a level of funding that if paid on an ongoing basis is projected to cover the normal cost each year and amortize any unfunded actuarial liabilities of the plan over a period not to exceed thirty years.

(i) "Board" means the Public Employees Insurance Agency Finance Board created in section four, article sixteen of this chapter.

(j) "Cost sharing multiple employer plan" means a single plan with pooling (cost-sharing) arrangements for the participating employers. All risk, rewards, and costs, including benefit costs, are shared and not attributed individually to the employers. A single
actuarial valuation covers all plan members and the
same contribution rate applies for each employer.

(k) "Covered health care expenses" means all actual
health care expenses paid by the health plan on behalf
of fund beneficiaries. Actual health care expenses
include claims payments to providers and premiums
paid to intermediary entities and health care providers
by the health plan.

(l) "Employer" means any employer as defined by
section two, article sixteen of this chapter which has or
will have retired employees in any Public Employees
Insurance Agency health plan.

(m) "Employer annual required contribution" means
the portion of the annual required contribution which
is the responsibility of that particular employer.

(n) "Fund" means the West Virginia Retiree Health
Benefit Trust Fund established under this article.

(o) "Fund beneficiaries" means all persons receiving
post-employment health care benefits through the
health plan.

(p) "Health plan" means the health insurance plan or
plans established under article sixteen of this chapter.

(q) "Minimum annual employer payment" means the
annual amount paid by employers which, when
combined with the retirees' contributions on their
premiums that year, provide sufficient funds to cover all
projected retiree covered health care expenses and
related administrative costs for that year. The finance
board shall develop the minimum annual employer
payment as part of its financial plan each year as
addressed in section five, article sixteen of this chapter.

(r) "Normal cost" means that portion of the actuarial
present value of the fund obligations and expenses
which is allocated to a valuation year by the actuarial
cost method used for the fund.

(s) "Obligations" means the administrative expenses
of the fund and the cost of covered health care expenses incurred on behalf of fund beneficiaries.

(t) "Other post-employment benefits" or "retiree post-employment health care benefits" means those benefits as addressed by governmental accounting standards board statement no. 43 or any subsequent governmental standards board statement that may be applicable to the fund.

(u) "Plan for other post-employment benefits" means the fiscal funding plan for retiree post-employment health care benefits as it relates to governmental accounting standards board statement no. 43 or any subsequent governmental accounting standards board statements that may be applicable to the fund.

(v) "Retiree" means retired employee as defined by section two, article sixteen of this chapter.

(w) "Retirement system" or "system" means the West Virginia Consolidated Public Retirement Board created and established by article ten of this chapter and includes any retirement systems or funds administered or overseen by the Consolidated Public Retirement Board.

(x) "Unfunded actuarial accrued liability" means for any actuarial valuation the excess of the actuarial accrued liability over the actuarial value of the assets of the fund under an actuarial cost method used by the fund for funding purposes.

§5-16D-6. Mandatory employer contributions.

(a) The board shall annually set the total annual required contribution sufficient to maintain the fund in an actuarially sound manner in accordance with generally accepted accounting principles.

(b) The board shall annually allocate to the respective employers the employer's portion of the annual required contribution, which allocated amount is the "employer annual required contribution".
(c) The board may apportion the annual required contribution into various components. These components may include the amortized unfunded actuarial accrued liability, the total normal cost, the employer annual required contribution and the lesser included minimum annual employer payment. In the board's annual apportionment of the annual required contribution, any amounts of the minimum annual employer payment apportioned to reduce the amortized unfunded actuarial accrued liability shall not be treated as premium by the board in the finance plan but, rather, shall be treated as contributions to prefund other post-employment benefits.

(d) Employers shall make annual contributions to the fund in, at least, the amount of the minimum annual employer payment rates established by the board.

(e) The Public Employees Insurance Agency shall bill each employer for the employer annual required contribution and the included minimum annual employer payment. The Public Employees Insurance Agency shall annually collect the minimum annual employer payment. The Public Employees Insurance Agency shall, in addition to the minimum annual employer payment, collect any amounts the employer elects to pay toward the employer annual required contribution. Any employer annual required contribution amount not satisfied by the respective employer shall remain the liability of that employer until fully paid.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 1. GENERAL PROVISIONS.

§18A-1-1. Definitions.

The definitions contained in section one, article one, chapter eighteen of this code apply to this chapter. In addition, the following words used in this chapter and in any proceedings pursuant to this chapter shall, unless the context clearly indicates a different meaning, be construed as follows:
(a) "School personnel" means all personnel employed by a county board whether employed on a regular full-time basis, an hourly basis or otherwise. School personnel shall be comprised of two categories: Professional personnel and service personnel;

(b) "Professional personnel" means persons who meet the certification requirements of the state, licensing requirements of the state or both and includes the professional educator and other professional employees;

(c) "Professional educator" has the same meaning as "teacher" as defined in section one, article one, chapter eighteen of this code. Professional educators shall be classified as:

1. "Classroom teacher" means a professional educator who has direct instructional or counseling relationship with pupils, spending the majority of his or her time in this capacity;

2. "Principal" means a professional educator who, as agent of the county board, has responsibility for the supervision, management and control of a school or schools within the guidelines established by the county board. The major area of the responsibility shall be the general supervision of all the schools and all school activities involving pupils, teachers and other school personnel;

3. "Supervisor" means a professional educator who, whether by this or other appropriate title, is responsible for working primarily in the field with professional and other personnel in instructional and other school improvement; and

4. "Central office administrator" means a superintendent, associate superintendent, assistant superintendent and other professional educators, whether by these or other appropriate titles, who are charged with the administering and supervising of the whole or some assigned part of the total program of the countywide school system;

(d) "Other professional employee" means that person
from another profession who is properly licensed and is
employed to serve the public schools and includes a
registered professional nurse, licensed by the West
Virginia Board of Examiners for Registered Professional
Nurses and employed by a county board, who has
completed either a two-year (sixty-four semester hours)
or a three-year (ninety-six semester hours) nursing
program;

(e) "Service personnel" means those who serve the
school or schools as a whole, in a nonprofessional
capacity, including such areas as secretarial, custodial,
maintenance, transportation, school lunch and as aides;

(f) "Principals Academy" or "academy" means the
academy created pursuant to section two-b, article
three-a of this chapter;

(g) "Center for Professional Development" means the
center created pursuant to section one, article three-a of
this chapter;

(h) "Job-sharing arrangement" means a formal,
written agreement voluntarily entered into by a county
board with two or more of its employees who wish to
divide between them the duties and responsibilities of
one authorized full-time position;

(i) "Prospective employable professional personnel"
means certified professional educators who:

(1) Have been recruited on a reserve list of a county
board;

(2) Have been recruited at a job fair or as a result of
contact made at a job fair;

(3) Have not obtained regular employee status through
the job posting process provided for in section seven-a,
article four of this chapter; and

(4) Have obtained a baccalaureate degree from an
accredited institution of higher education within the
past year;
(j) "Dangerous student" means a pupil who is substantially likely to cause serious bodily injury to himself, herself or another individual within that pupil's educational environment, which may include any alternative education environment, as evidenced by a pattern or series of violent behavior exhibited by the pupil and documented in writing by the school, with the documentation provided to the student and parent or guardian at the time of any offense; and

(k) "Alternative education" means an authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions.

(l) "Long-term substitute" means a substitute employee who fills a vacant position:

That the county superintendent expects to extend for at least ninety consecutive days and is either:

(A) Listed in the job posting as a long-term substitute position of over ninety days; or

(B) Listed in a job posting as a regular, full-time position and:

(i) Is not filled by a regular, full-time employee; and

(ii) Is filled by a substitute employee.

For the purposes of section two, article sixteen, chapter five of this code, long-term substitute does not include a retired employee hired to fill the vacant position.
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 1st 2007.

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 , 2007.

Governor