Enrolled

Senate Bill 339

BY SENATORS GAUNCH AND BLAIR

[Passed March 10, 2018; in effect 90 days from passage]
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AN ACT to amend and reenact §5-160-1, §5-160-3, §5-160-4, and §5-160-6 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Retirement Health Benefit Trust Fund within the Public Employees Insurance Agency; modifying definitions to provide flexibility for compliance with the Governmental Accounting Standards Board guidance; defining new terms; and allowing the current allocation process for unfunded liability to continue.

Be it enacted by the Legislature of West Virginia:

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

§5-16D-1. Definitions.

As used in this article, the term:

(a) "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 a total other post-employment benefits liability. Acceptable actuarial methods are the aggregate, attained age, entry age, frozen attained age, frozen entry age, and projected unit credit methods.

(b) "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 total other post-employment benefits liability over a period of no more than 30 years.

(c) "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.

(d) "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
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asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other relevant items.

(e) “Actuarial valuation” means the determination, as of a valuation date, of the normal cost, total other post-employment benefits liability, actuarial value of assets, and related actuarial present values for the fund.

(f) “Administrative expenses” means all expenses incurred in the operation of the fund, including all investment expenses.

(g) “Board” means the Public Employees Insurance Agency Finance Board created in §5-16-4 of this code.

(h) “Collective net other post-employment benefits liability” means for any actuarial valuation, the excess of the plan’s total other post-employment benefits liability over the actuarial value of the assets of the fund under an actuarial cost method used by the fund for funding purposes.

(i) “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.

(j) “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.

(k) “Employer” means any employer as defined by §5-16-2 of this code which has or will have retired employees in any Public Employees Insurance Agency health plan.

(l) “Fund” means the West Virginia Retiree Health Benefit Trust Fund established under this article.
(m) “Fund beneficiaries” means all persons receiving post-employment health care benefits through the health plan.

(n) “Health plan” means the health insurance plan or plans established under §5-16-1 et seq. of this code.

(o) “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 such that the annual finance plan of the finance board will 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 §5-16-5 of this code.

(p) “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.

(q) “Obligations” means the administrative expenses of the fund and the cost of covered health care expenses incurred on behalf of fund beneficiaries.

(r) “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.

(s) “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.

(t) “Proportionate share” means the portion of the collective net other post-employment benefits liability that is attributed to, and the responsibility of, a particular employer.

(u) “Retiree” means retired employee as defined by §5-16-2 of this code.
(v) “Retirement system” or “system” means the West Virginia Consolidated Public Retirement Board created and established by §5-10-1 et seq. of this code and includes any retirement systems or funds administered or overseen by the Consolidated Public Retirement Board.

(w) “Total other post-employment benefits 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.

§5-16D-3. Operation of trust fund.

(a) Responsibility for the rules and policies for the proper operation of the fund is vested in the board.

(b) The board shall adopt actuarial assumptions as it deems necessary and prudent.

(c) The board shall determine the contribution rates in an actuarially sound manner and each employer’s proportionate share sufficient to maintain the fund in accordance with the state plan for other post-employment benefits.

(d) The board may promulgate, in accordance with §29A-1-1 et seq. of this code, any rules it finds necessary to properly administer the fund. The board may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

(e) The Public Employees Insurance Agency shall furnish reports to the board at each of the board’s regularly scheduled meetings. The reports shall contain the most recent information reasonably available to the Public Employees Insurance Agency reflecting the obligations of the fund, earnings on investments, and such other information as the board deems necessary and appropriate.

(f) The Secretary of the Department of Administration, as chair of the board, shall cause to be employed within the Public Employees Insurance Agency such personnel as may be needed to carry out the provisions of this article. The pro rata share of the costs to the Public Employees
Insurance Agency of operating the fund shall be part of the administrative costs of the fund and shall be reimbursed to the Public Employees Insurance Agency.

(g) The Public Employees Insurance Agency, on the board’s behalf, shall be responsible for the day-to-day operation of the fund and may employ or contract for the services of actuaries and other professionals as required to carry out the duties established by this article.

(h) The board shall contract with the West Virginia Investment Management Board for any necessary services with respect to fund investments.

(i) The Public Employees Insurance Agency, on the board’s behalf, shall maintain all necessary records regarding the fund in accordance with generally accepted accounting principles.

(j) The Public Employees Insurance Agency, on the board’s behalf, shall collect all moneys due to the fund and shall pay current post-employment health care costs and any administrative expenses necessary and appropriate for the operation of the fund from the fund. The fund’s assets shall be maintained and accounted for in state funds. The state funds shall be: (1) The Other Post-Employment Benefit Contribution Accumulation Fund; (2) the Other Post-Employment Benefit Investment Fund; and (3) the Other Post-Employment Benefit Expense Fund. These funds will be maintained by the Public Employees Insurance Agency on the board’s behalf.

(k) The Public Employees Insurance Agency, on the board’s behalf, shall prepare an annual report of fund activities. The report shall include, but not be limited to, independently audited financial statements in accordance with generally accepted accounting principles. The financial statements must be independently audited in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards as issued by the Comptroller General of the United States.

(l) Notwithstanding any other provision of law to the contrary, the Public Employees Insurance Agency shall be entitled to request and receive any information that it deems necessary
and appropriate from any relevant retirement system in order that the provisions of this article may be carried out.

§5-16D-4. Actuary.

(a) The actuary employed or retained by the Public Employees Insurance Agency shall provide technical advice to the Public Employees Insurance Agency and to the board regarding the operation of the fund.

(b) Using the actuarial assumptions most recently adopted by the board, the actuary shall, on a biannual basis, or as frequently as the board or generally accepted accounting principles deems necessary, set actuarial valuations of normal cost, actuarial liability, actuarial value of assets, and related actuarial present values for the state plan for other post-employment benefits.

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

(a) The board shall annually set the minimum annual employer payment sufficient to maintain the fund in an actuarially sound manner in accordance with generally accepted accounting principles and the annual finance plan.

(b) The board shall annually allocate to the respective employers the employer's proportionate share of the collective net other post-employment liability as determined by the actuarial valuation in accordance with generally accepted accounting principles.

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

(d) The Public Employees Insurance Agency shall bill each employer for the minimum annual employer payment. The Public Employees Insurance Agency shall annually collect the minimum annual employer payment. Any employer's proportionate share of the collective net other post-employment amount not satisfied by the respective employer shall remain the liability of that employer until fully paid or otherwise amortized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Vice-Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the 2nd Day of March, 2018.

Governor