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ENGROSSED

H. B. 3271

(By Delegates White, Campbell, M. Poling, Kominar, Marshall,
Iaquinta, D. Poling, Stowers, Anderson, Border and Cowles)

(Originating in the Committee on Finance)

[February 25, 2011]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-4-14a; and to amend said code by adding thereto a new section, designated §33-3-33a, all relating to the distribution of state funds to volunteer fire companies and departments generally; establishing the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; providing that the state auditor administer the distribution of moneys of the fund to volunteer and part volunteer fire companies and departments to help defray workers' compensation insurance premium increases; providing additional funding from various sources; and requiring reviews, assessments and reports to the Legislature prior to termination of provisions.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §12-4-14a; and that said code be amended by adding thereto a new section, designated

1 §33-3-33a, all to read as follows:

2 **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

3 **ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

4 **§12-4-14a. Workers' Compensation Premium Subsidy for Volunteer**
5 **Fire Departments; creation of Volunteer Fire**
6 **Department Workers' Compensation Premium Subsidy**
7 **Fund; auditor to administer.**

8 (a) In recognition of the burden of increasing workers'
9 compensation insurance premiums on volunteer and part volunteer
10 fire companies and departments, the Legislature has determined
11 that additional funding assistance should be made available to
12 eligible departments to pay those premium increases beginning
13 with invoices due and payable on or after July 1, 2011.

14 (b) There is hereby established a special fund in the state
15 treasury which shall be known as the "Volunteer Fire Department
16 Workers' Compensation Premium Subsidy Fund." The fund shall be
17 administered by the State Auditor and consist of moneys deposited
18 in the fund pursuant to §33-3-33a, any other funds appropriated
19 by the Legislature for volunteer and part volunteer fire
20 companies and departments for the purposes of this section, and
21 the interest or other earnings on the moneys in the fund.
22 Balances in the fund at the end of any fiscal year shall not
23 expire, but shall be expended for the purposes of this section in
24 ensuing fiscal years pursuant to appropriation of the
25 Legislature.

26 (c) The state auditor shall administer the distribution of
27 moneys of the fund to volunteer and part volunteer fire companies

1 and departments to help defray workers' compensation insurance
2 premium increases.

3 (1) Volunteer and part volunteer fire companies and
4 departments shall request supplemental funds by submitting to the
5 auditor the following information:

6 (A) The previous fiscal year's workers' compensation premium
7 invoices with paid receipts;

8 (B) The current fiscal year's workers' compensation premium
9 invoices showing the amount due and due date and any applicable
10 paid receipts; and

11 (C) Any other information the auditor may deem necessary for
12 administering the subsidy on such forms and schedules as the
13 auditor may direct. The auditor is authorized to set up an
14 electronic filing system at the discretion of the auditor for
15 filing of the aforementioned information.

16 (D) For purposes of this section, "fiscal year" means the
17 fiscal year of this State.

18 (2) After determining that there is a premium increase and
19 the amount of the premium increase for the volunteer company or
20 department requesting the subsidy, the auditor shall make
21 disbursements in the manner set forth in subsection (d) of this
22 section subject to the following requirements:

23 (A) The volunteer company or department must be in good
24 standing with the State Fire Marshal;

25 (B) The volunteer company or department must be registered
26 with the auditor's office in a form and manner prescribed by the
27 auditor prior to being eligible for consideration of any

1 subsidy, which registration must be completed no fewer than
2 thirty days prior to the due date of the workers' compensation
3 premium;

4 (C) The volunteer company or department must agree that the
5 subsidy for its workers' compensation insurance premium increase
6 will be paid directly to its insurance carrier by the auditor and
7 that it will timely pay the balance of the premium due;

8 (d) Beginning with the fiscal year that starts July 1, 2011,
9 and continuing in each fiscal year thereafter, after the auditor
10 has verified that a company or department is eligible for a
11 subsidy pursuant to this section, he or she shall pay on behalf
12 of that company or department its subsidy, which is calculated by
13 subtracting the individual base year premium from the individual
14 premium. In no event shall a company or department receive a
15 workers' compensation premium subsidy greater than one hundred
16 percent of its premium increase.

17 (e) For fiscal years after the fiscal year beginning on July
18 1, 2011, the auditor shall consult with the insurance
19 commissioner to determine the total amount of workers'
20 compensation premium due by volunteer and part volunteer fire
21 companies and departments for any subsequent fiscal year. The
22 auditor may determine payment dates based upon information
23 reasonably available for such a determination.

24 (f) For the purposes of this section:

25 (1) "Individual base year premium" shall mean the workers'
26 compensation insurance premium that became due and payable by a
27 volunteer company or department after June 30, 2010, but before

1 July 1, 2011.

2 (2) "Individual premium" shall mean the workers' compensation
3 premium due and payable by a volunteer company or department in
4 each twelve month period beginning on or after July 1, 2011.

5 (3) "Volunteer company or department" shall mean a volunteer
6 or part volunteer fire company or department that was qualified
7 to receive a distribution from the Fire Protection Fund pursuant
8 to section thirty-three, article three, chapter thirty-three of
9 this code on July 1, 2010 and is, at the time of the distribution
10 under this section, eligible to receive distributions from the
11 Fire Protection Fund.

12 (g) The auditor may promulgate emergency rules and may
13 propose for promulgation legislative rules, in accordance with
14 the provisions of article three, chapter twenty-nine-a of this
15 code, as are necessary to provide for implementation and
16 enforcement of the provisions of this section.

17 (h) The implementation of the provisions of this section
18 shall undergo a review to assess its effectiveness after three
19 years of operation. The auditor shall submit a report to the
20 Legislature not later than June 30, 2013, and provide details of
21 the implementation, including funds distributed and departments
22 taking advantage of the subsidy, as well as the assessment of its
23 effectiveness.

24 (i) No provision of this section may be construed to require
25 the auditor to provide funding for the purposes of this section
26 in any amount in excess of the moneys available in the Volunteer
27 Fire Department Workers' Compensation Premium Subsidy Fund.

1 (j) Upon the conclusion of the fiscal year ending June 30,
2 2014, the provisions of this section shall expire and be of no
3 further force and effect, the Volunteer Fire Department Workers'
4 Compensation Premium Subsidy Fund shall be closed, and any
5 balances remaining in the fund shall be distributed as provided
6 in section thirty-three-a, article three, chapter thirty-three of
7 this code.

8 **CHAPTER 33. INSURANCE.**

9 **ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.**

10 **§33-3-33a. Excess moneys of Fire Protection Fund deposited into**
11 **Volunteer Fire Department Workers' Compensation**
12 **Premium Subsidy Fund.**

13 (a) Beginning July 1, 2011, and in each fiscal year
14 thereafter until June 30, 2014, the excess of the aggregate of
15 amounts collected by the commissioner that are otherwise required
16 under any provision of this code to be deposited into the Fire
17 Protection Fund over the aggregate of those amounts deposited
18 into the Fire Protection Fund during the fiscal year ending June
19 30, 2011, shall be deposited into the Volunteer Fire Department
20 Workers' Compensation Premium Subsidy Fund established pursuant
21 to section fourteen-a, article four, chapter twelve of this code
22 and expended solely for the purposes established in that section.

23 (b) On or before August 1, 2011, the commissioner shall
24 transfer \$7.5 million from the premium tax savings fund created
25 under section thirteen, article twelve, chapter twenty-nine of
26 this code to the Volunteer Fire Department Workers' Compensation
27 Premium Subsidy Fund and expended solely for the purposes

1 established in section fourteen-a, article four, chapter twelve
2 of this code until June 30, 2014.

3 (c) The State Fire Marshal, in consultation with the
4 commissioner and the Secretary of Revenue, shall conduct a review
5 of the needs of each volunteer or part volunteer fire company or
6 department serving in the various counties of the state. On or
7 before June 30, 2013, the State Fire Marshal shall submit to the
8 Joint Committee on Government and Finance a comprehensive report
9 of the review and the State Fire Marshal's recommendations,
10 substantiated by the findings of the review, of steps that may be
11 taken to meet the needs of the volunteer and part volunteer fire
12 companies and departments, including, but not limited to, the
13 following:

14 (1) An assessment of all current funding received by the
15 volunteer companies and departments, and a further assessment of
16 the funding necessary to provide the community protections
17 required for the areas served by the volunteer companies and
18 departments, the extent to which those needs are being met, the
19 extent to which they are not being met, and recommendations of
20 sources of funds to meet additional needs and the amounts needed,
21 if any;

22 (2) An assessment of the cost of workers' compensation
23 coverage for the volunteer companies and departments and
24 recommendations for any actions that may be undertaken by the
25 volunteer companies and departments and others to reduce those
26 costs;

27 (3) An assessment of the causes of any decline in

1 recruitment and retention of volunteer firefighters and
2 recommendations for improvements in this area, including any
3 recommendations for incentives that have a demonstrated record of
4 significant increases in recruitment and retention as well as
5 recommendations of sources of funds to provide those incentives,
6 if funds are necessary;

7 (4) An assessment of the level of financial accountability
8 that should be required of volunteer companies and departments in
9 order to provide the Legislature the information necessary to
10 target future funding for their activities based upon the safety
11 and fire protection needs of the various areas of the state;

12 (5) An assessment of the comparative levels of funding for
13 volunteer companies and departments provided by counties,
14 municipalities and other political subdivisions and the means by
15 which that funding is provided, including identification of those
16 which contribute little or no funding to the volunteer companies
17 and departments within their jurisdictions, together with
18 recommendations for increasing those levels of contributions;

19 (6) An assessment of the comparative levels of funding for
20 volunteer companies and departments provided by their own
21 efforts, and the means by which that funding is provided,
22 including identification of those which provide little or no
23 funding through their own efforts, together with recommendations
24 for increasing these sources of funding;

25 (7) An assessment of the comparative economic and other
26 benefits provided by the various volunteer companies and
27 departments to their particular counties, municipalities and

1 other political subdivisions, as well as to citizens of the local
2 communities they serve;

3 (8) Other assessments and recommendations which the State
4 Fire Marshal deems appropriate in the circumstances.

5 (d) Upon the conclusion of the fiscal year ending June 30,
6 2014, the provisions of this section shall expire and be of no
7 further force and effect and the Volunteer Fire Department
8 Workers' Compensation Premium Subsidy Fund shall be closed. Upon
9 closure of the fund, from any balances therein remaining, the
10 state auditor shall first, to the extent available, transfer to
11 the Fire Protection Fund an amount equal to the aggregate of
12 funds deposited into the Volunteer Fire Department Workers'
13 Compensation Premium Subsidy Fund during the fiscal years ending
14 June 30, 2012, 2013 and 2014 pursuant to subsection (a) of this
15 section that would otherwise have been required to be deposited
16 into the Fire Protection Fund, and any balances thereafter
17 remaining in the Volunteer Fire Department Workers' Compensation
18 Premium Subsidy Fund shall expire to the general revenue fund of
19 the state.