

1 **H. B. 3271**

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

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6 (Originating in the Committee on Finance)

7

8 [February 25, 2011]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §12-4-14a; and to
12 amend said code by adding thereto a new section, designated
13 §33-3-33a, all relating to the distribution of state funds
14 to volunteer fire companies and departments generally;
15 establishing the Volunteer Fire Department Workers'
16 Compensation Premium Subsidy Fund; providing that the state
17 auditor administer the distribution of moneys of the fund to
18 volunteer and part volunteer fire companies and departments
19 to help defray workers' compensation insurance premium
20 increases; and providing additional funding from excess
21 insurance premium taxes.

22 *Be it enacted by the Legislature of West Virginia:*

23 That the Code of West Virginia, 1931, as amended, be amended
24 by adding thereto a new section, designated §12-4-14a; and that
25 said code be amended by adding thereto a new section, designated
26 §33-3-33a, all to read as follows:

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

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

2 **§12-4-14a. Workers' Compensation Premium Subsidy for Volunteer**
3 **Fire Departments; creation of Volunteer Fire**
4 **Department Workers' Compensation Premium Subsidy**
5 **Fund; auditor to administer.**

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

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

24 (c) The state auditor shall administer the distribution of
25 moneys of the fund to volunteer and part volunteer fire companies
26 and departments to help defray workers' compensation insurance
27 premium increases.

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

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

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

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

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

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

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

23 (B) The volunteer company or department must be registered
24 with the auditor's office in a form and manner prescribed by the
25 auditor prior to being eligible for consideration of any
26 subsidy, which registration must be completed no fewer than
27 thirty days prior to the due date of the workers' compensation

1 premium;

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

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

15 (e) For fiscal years after the fiscal year beginning on July
16 1, 2011, the auditor shall consult with the insurance
17 commissioner to determine the total amount of workers'
18 compensation premium due by volunteer and part volunteer fire
19 companies and departments for any subsequent fiscal year. The
20 auditor may determine payment dates based upon information
21 reasonably available for such a determination.

22 (f) For the purposes of this section:

23 (1) "Individual base year premium" shall mean the workers'
24 compensation insurance premium that became due and payable by a
25 volunteer company or department after June 30, 2010, but before
26 July 1, 2011.

27 (2) "Individual premium" shall mean the workers' compensation

1 premium due and payable by a volunteer company or department in
2 each twelve month period beginning on or after July 1, 2011.

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

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

15 (h) The implementation of the provisions of this section
16 shall undergo a review to assess its effectiveness after three
17 years of operation. The auditor shall submit a report to the
18 Legislature not later than February 1, 2015, and provide details
19 of the implementation, including funds distributed and
20 departments taking advantage of the subsidy, as well as the
21 assessment of its effectiveness.

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

26 **CHAPTER 33. INSURANCE.**

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

1 §33-3-33a. Excess moneys of Fire Protection Fund deposited into
2 Volunteer Fire Department Workers' Compensation
3 Premium Subsidy Fund.

4 (a) Beginning July 1, 2011, and in each fiscal year
5 thereafter, the excess of the aggregate of amounts collected by
6 the commissioner that are otherwise required under any provision
7 of this code to be deposited into the Fire Protection Fund over
8 the aggregate of those amounts deposited into the Fire Protection
9 Fund during the fiscal year ending June 30, 2011, shall be
10 deposited into the Volunteer Fire Department Workers'
11 Compensation Premium Subsidy Fund established pursuant to section
12 fourteen-a, article four, chapter twelve of this code and
13 expended solely for the purposes established in that section.