

1 SB513 SUB1

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 513**

5 (By Senator Minard)

6 _____
7 [Originating in the Committee on Banking and Insurance;
8 reported February 23, 2011.]
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10
11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §33-2-21a, relating
13 to establishing a program to provide workers' compensation
14 coverage of state government entities and their employees;
15 defining participants and exceptions thereto; designating the
16 Insurance Commissioner to manage workers' compensation risks
17 of state entities; creating a purchasing exemption for the
18 program; authorizing commissioner to assess fees and
19 surcharges and premiums; creating fund in State Treasury;
20 authorizing investment of funds; permitting loan from
21 Insurance Commissioner's administrative fund to the state
22 entities' workers' compensation program fund and repayment to
23 the administrative fund; authorizing Insurance Commissioner to
24 propose legislative rules and to adopt emergency rules;

1 requiring reports to the Joint Committee on Government and
2 Finance on the status of the program; and requiring
3 consultation by the Insurance Commissioner with the State
4 Board of Risk and Insurance Management.

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

6 That the Code of West Virginia, 1931, as amended, be amended
7 by adding thereto a new section, designated §33-2-21a, to read as
8 follows:

9 **ARTICLE 2. INSURANCE COMMISSIONER.**

10 **§33-2-21a. State agency workers' compensation programs.**

11 (a) The intent of this section is to provide a means of
12 managing workers' compensation coverage for persons directly
13 employed by the State of West Virginia. For the purposes of this
14 section:

15 (1) "Discretionary participant" means the Parkways Authority,
16 offices of the State Auditor, the State Treasurer, the Secretary of
17 State, the Attorney General, the Department of Agriculture, the
18 State Senate and House of Delegates or their related entities, the
19 Supreme Court of Appeals, the State Police and any other spending
20 unit of the state that is required by section twelve, article two,
21 chapter eleven-b of this code to provide a detailed expenditure
22 schedule to the Secretary of Revenue in his or her capacity as
23 Director of the Budget: *Provided*, That the term "discretionary
24 participant" does not include any executive state entity other than

1 the State Police and the Parkways Authority, any county board of
2 education, any other county entity or its instrumentality or any
3 municipality or its instrumentality.

4 (2) "Executive state entity" means the Governor's Office and
5 its affiliated entities, Bureau of Senior Services, or any state
6 department, division, fund, office, position, system, survey or
7 other entity of state government, however designated, transferred
8 to and incorporated in one of the executive departments created in
9 section two, article one, chapter five-f of this code, except the
10 State Police, and that is required by section twelve, article two,
11 chapter eleven-b of this code to provide a detailed expenditure
12 schedule to the Secretary of Revenue in his or her capacity as
13 Director of the Budget.

14 (b) Notwithstanding any provision of this code to the
15 contrary, the commissioner has sole responsibility for managing the
16 workers' compensation risks of all executive state entities and for
17 supervising and controlling the workers' compensation programs for
18 such entities: *Provided*, That any discretionary participant may
19 participate in the program upon application to the commissioner
20 under the same terms and conditions as are applicable to executive
21 state entities: *Provided further*, That a discretionary participant
22 is, in accordance with rules governing the program, permitted to
23 withdraw from continued participation in the program.

24 (c) The commissioner may assess such fees or surcharges on

1 participants in the program necessary to manage the workers'
2 compensation risks of those participants. All premiums, fees and
3 surcharges shall be established in accordance with generally
4 acceptable actuarial standards applicable to workers compensation
5 coverage as to each participant and as to all participants in the
6 aggregate. The commissioner shall establish criteria for
7 assessments of premiums, fees and surcharges designed to provide
8 the most cost efficient coverage for all participants.

9 (d) The provisions of article three, chapter five-a of this
10 code relating to the Purchasing Division of the Department of
11 Administration do not apply to any contract entered into by the
12 commissioner in furtherance of the requirements of this section:
13 *Provided*, That those contracts shall be awarded on a competitive
14 basis.

15 (e) (1) There is hereby established the "State Entities
16 Workers' Compensation Program Fund." All premiums, surcharges,
17 assessments, deposits or any other moneys or funds deposited or
18 otherwise designated or accruing to the fund as well as all
19 earnings payable to it, shall be deposited in the State Treasury to
20 the credit of the fund. Expenditures from the fund shall be for
21 the purposes set forth in this section, are authorized from
22 collections, and shall not revert to the General Fund. The fund
23 shall be a separate and distinct fund upon the books and records of
24 the Auditor and Treasurer, and disbursements therefrom shall be

1 made upon requisitions signed by the Insurance Commissioner.

2 (2) Any premiums, assessments or deposits or any other moneys
3 or funds received for the purposes of this section shall be
4 invested by the State Treasurer at the request of the commissioner.

5 (3) The Insurance Commissioner may borrow funds as is
6 determined necessary from the Insurance Commission Fund, created in
7 section thirteen-b, article three, chapter thirty-three of this
8 code, for the initial operations of the workers' compensation
9 program for state entities: *Provided*, That any borrowed funds
10 shall be deposited to the credit of the State Entities Workers'
11 Compensation Program Fund: *Provided, however*, That these borrowed
12 funds shall be repaid, without interest, and redeposited to the
13 credit of the Insurance Commission Fund as determined by the
14 Insurance Commissioner.

15 (f) The commissioner may promulgate emergency rules and shall
16 propose for legislative approval legislative rules, in accordance
17 with the provisions of article three, chapter twenty-nine-a of this
18 code, as are necessary to provide for implementation and
19 enforcement of the provisions of this section.

20 (g) The commissioner shall submit reports on the status and
21 progress of the program established in this section to the joint
22 committee on government and finance upon request, together with any
23 other specific information on the program requested by the
24 committee.

1 (h) The commissioner shall consult with the State Board of
2 Risk and Insurance Management to solicit any applicable experience
3 and expertise in establishing and managing a program to provide
4 insurance coverage to state agencies.

NOTE: The purpose of this bill is to create a program for managing workers' compensation coverage of state entities by the Insurance Commissioner.

§33-2-21a is new; therefore, strike-throughs and underscoring have been omitted.