

**H. B. 2894**

(By Delegates Hamilton, Hartman, D. Campbell,  
Snuffer, Talbott, Manypenny, Michael, Ireland,  
Evans, Azinger and Ferro)

[Introduced January 27, 2011; referred to the  
Committee on Banking and Insurance then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §33-3-33 of the Code of West Virginia,  
1931, as amended, relating to taking back the surcharge on  
fire and casualty insurance policies to one percent and have  
this surcharge benefit volunteer and part-volunteer fire  
departments.

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

That §33-3-33 of the Code of West Virginia, 1931, as amended,  
to read as follows:

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

**§33-3-33. Surcharge on fire and casualty insurance policies to  
benefit volunteer and part-volunteer fire  
departments; Public Employees Insurance Agency and  
municipal pension plans; special fund created;  
allocation of proceeds; effective date.**

~~(a) (1) For the purpose of providing additional revenue for  
volunteer fire departments, part volunteer fire departments, and  
certain retired teachers and the teachers retirement reserve fund,  
there is hereby authorized and imposed on and after July 1, 1992,  
on the policyholder of any fire insurance policy or casualty  
insurance policy issued by any insurer, authorized or unauthorized,~~

1 ~~or by any risk retention group, a policy surcharge equal to one~~  
2 ~~percent of the taxable premium for each such policy. After June~~  
3 ~~30, 2005, the surcharge shall be imposed as specified in~~  
4 ~~subdivisions (2) and (3) of this subsection.~~

5 ~~(2) After June 30, 2005, through December 31, 2005, for the~~  
6 ~~purpose of providing additional revenue for volunteer fire~~  
7 ~~departments, part-volunteer fire departments and to provide~~  
8 ~~additional revenue to the Public Employees Insurance Agency and~~  
9 ~~municipal pension plans, there is hereby authorized and imposed on~~  
10 ~~and after July 1, 2005, on the policyholder of any fire insurance~~  
11 ~~policy or casualty insurance policy issued by any insurer,~~  
12 ~~authorized or unauthorized, or by any risk retention group, a~~  
13 ~~policy surcharge equal to one percent of the taxable premium for~~  
14 ~~each such policy.~~

15 ~~(3) After December 31, 2005~~ For the purpose of providing  
16 additional revenue for volunteer fire departments and part-  
17 volunteer fire departments, there is hereby authorized and imposed  
18 on the policyholder of any fire insurance policy or casualty  
19 insurance policy issued by any insurer, authorized or unauthorized,  
20 or by any risk retention group, a policy surcharge equal to ~~fifty-~~  
21 ~~five one hundredths~~ of one percent of the taxable premium for each  
22 such policy.

23 ~~(4)~~ (2) For purposes of this section, casualty insurance may  
24 not include insurance on the life of a debtor pursuant to or in  
25 connection with a specific loan or other credit transaction or  
26 insurance on a debtor to provide indemnity for payments becoming

1 due on a specific loan or other credit transaction while the debtor  
2 is disabled as defined in the policy. The policy surcharge may not  
3 be subject to premium taxes, agent commissions or any other  
4 assessment against premiums.

5 (b) The policy surcharge shall be collected and remitted to  
6 the commissioner by the insurer, or in the case of surplus lines  
7 coverage, by the surplus lines licensee, or if the policy is issued  
8 by a risk retention group, by the risk retention group. The amount  
9 required to be collected under this section shall be remitted to  
10 the commissioner on a quarterly basis on or before the twenty-fifth  
11 day of the month succeeding the end of the quarter in which they  
12 are collected, except for the fourth quarter for which the  
13 surcharge shall be remitted on or before March 1 of the succeeding  
14 year.

15 (c) Any person failing or refusing to collect and remit to the  
16 commissioner any policy surcharge and whose surcharge payments are  
17 not postmarked by the due dates for quarterly filing is liable for  
18 a civil penalty of up to \$100 for each day of delinquency, to be  
19 assessed by the commissioner. The commissioner may suspend the  
20 insurer, broker or risk retention group until all surcharge  
21 payments and penalties are remitted in full to the commissioner.

22 (d) (1) All money from the policy surcharge shall be collected  
23 by the commissioner who shall disburse the money received from the  
24 surcharge into a special account in the State Treasury, designated  
25 the Fire Protection Fund. The net proceeds of this portion of the  
26 tax and the interest thereon, after appropriation by the

1 Legislature, shall be distributed quarterly on January 1, April  
2 1, July 1 and October 1, to each volunteer fire company or  
3 department on an equal share basis by the State Treasurer. After  
4 ~~June 30, 2005, the money received from the surcharge shall be~~  
5 ~~distributed as specified in subdivisions (2) and (3) of this~~  
6 ~~subsection.~~

7 ~~(2)(A) After June 30, 2005, through December 31, 2005, all~~  
8 ~~money from the policy surcharge shall be collected by the~~  
9 ~~Commissioner who shall disburse one half of the money received from~~  
10 ~~the surcharge into the Fire Protection Fund for distribution as~~  
11 ~~provided in subdivision (1) of this subsection.~~

12 ~~(B) The remaining portion of moneys collected shall be~~  
13 ~~transferred into the fund in the state Treasury of the Public~~  
14 ~~Employees Insurance Agency into which are deposited the~~  
15 ~~proportionate shares made by agencies of this state of the Public~~  
16 ~~Employees Insurance Agency costs of those agencies, until November~~  
17 ~~1, 2005. After the October 31, 2005, through December 31, 2005,~~  
18 ~~the remain portion shall be transferred to the special account in~~  
19 ~~the state Treasury, known as the Municipal Pensions and Protection~~  
20 ~~Fund.~~

21 ~~(3) After December 31, 2005, all money from the policy~~  
22 ~~surcharge shall be collected by the Commissioner who shall disburse~~  
23 ~~all of the money received from the surcharge into the Fire~~  
24 ~~Protection Fund for distribution as provided in subdivision (1) of~~  
25 ~~this subsection.~~

26 ~~(4)~~ (2) Before each distribution date to volunteer fire

1 companies or departments, the State Fire Marshal shall report to  
2 the State Treasurer the names and addresses of all volunteer and  
3 part-volunteer fire companies and departments within the state  
4 which meet the eligibility requirements established in section  
5 eight-a, article fifteen, chapter eight of this code.

6 (e) The allocation, distribution and use of revenues provided  
7 in the Fire Protection Fund are subject to the provisions of  
8 sections eight-a and eight-b, article fifteen, chapter eight of  
9 this code.

NOTE: The purpose of this bill is to take the fire or casualty insurance surcharge to one percent and dedicated the money to the Fire Protection Fund, which goes to volunteer and part-volunteer fire departments.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.