

**H. B. 3163**

(By Delegate Perry)

(By Request of the Insurance Commissioner)

[Introduced February 16, 2011; referred to the  
Committee on Banking and Insurance then Government  
Organization then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §33-2-21a, relating  
to workers' compensation programs of state government entities  
and their employees; defining participants and exceptions  
thereto; designating the Insurance Commissioner to manage  
workers' compensation risks of state entities; creating a  
purchasing exemption for the program; authorizing commissioner  
to assess fees; creating fund in State Treasury; authorizing  
investment of funds; permitting loan from Insurance  
Commissioner's administrative fund to the state entities'  
workers' compensation program fund and repayment to the  
administrative fund; and authorizing Insurance Commissioner to  
propose legislative rules and to adopt emergency rules.

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

That the Code of West Virginia, 1931, as amended, be amended by

1 adding thereto a new section, designated §33-2-21a, to read as  
2 follows:

3 **ARTICLE 2. INSURANCE COMMISSIONER.**

4 **§33-2-21a. State Agency Workers' Compensation Programs.**

5 (a) The intent of this section is to provide a means of  
6 managing workers' compensation coverage for persons directly  
7 employed by the State of West Virginia. For the purposes of this  
8 section:

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

22 (2) "Executive state entity" means the Governor's Office and  
23 its affiliated entities, Bureau of Senior Services, or any state  
24 department, division, fund, office, position, system, survey or

1 other entity of state government, however designated, transferred  
2 to and incorporated in one of the executive departments created in  
3 section two, article one, chapter five-f of this code, except the  
4 State Police, and that is required by section twelve, article two,  
5 chapter eleven-b of this code to provide a detailed expenditure  
6 schedule to the Secretary of Revenue in his or her capacity as  
7 Director of the Budget.

8 (b) Notwithstanding any provision of this code to the  
9 contrary, the commissioner has sole responsibility for managing the  
10 workers' compensation risks of all executive state entities and for  
11 supervising and controlling the workers' compensation programs for  
12 such entities: Provided, That any discretionary participant may  
13 apply to participate in the program, and if approved to do so by  
14 the commissioner, may be allowed to participate under the same  
15 terms and conditions as are applicable to executive state entities:  
16 Provided, however, That the commissioner may remove any such entity  
17 from the program for noncompliance with any conditions of  
18 participation: Provided further, That a discretionary participant  
19 is, in accordance with rules governing the program, permitted to  
20 withdraw from continued participation in the program.

21 (c) The commissioner may assess such fees or surcharges on  
22 participants in the program as he or she determines necessary to  
23 manage the workers' compensation risks of those participants.

24 (d) The provisions of article three, chapter five-a of this

1 code relating to the Purchasing Division of the Department of  
2 Administration do not apply to any contract entered into by the  
3 commissioner in furtherance of the requirements of this section:  
4 Provided, That those contracts shall be awarded on a competitive  
5 basis.

6 (e) (1) There is hereby established the "state entities  
7 Workers' Compensation Program Fund." All premiums, surcharges,  
8 assessments, deposits or any other moneys or funds deposited or  
9 otherwise designated or accruing to the fund as well as all  
10 earnings payable to it, shall be deposited in the State Treasury to  
11 the credit of the fund. Expenditures from the fund shall be for  
12 the purposes set forth in this section, are authorized from  
13 collections, and shall not revert to the General Fund. The fund  
14 shall be a separate and distinct fund upon the books and records of  
15 the Auditor and Treasurer, and disbursements therefrom shall be  
16 made upon requisitions signed by the Insurance Commissioner.

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

20 (3) The Insurance Commissioner may borrow funds as is  
21 determined necessary from the Insurance Commission Fund, created in  
22 section thirteen-b, article three, chapter thirty-three of this  
23 code, for the initial operations of the workers' compensation  
24 program for state entities: Provided, That any borrowed funds

1 shall be deposited to the credit of the "state entities Workers'  
2 Compensation Program Fund": *Provided, however,* That these funds  
3 shall be repaid, without interest, and redeposited to the credit of  
4 the Insurance Commission Fund as determined by the Insurance  
5 Commissioner.

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

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, it has been completely underscored.