

E N G R O S S E D

H. B. 3271

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(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 §33-3-33a, all to read as follows:

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

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

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

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

20 (c) The state auditor shall administer the distribution of
21 moneys of the fund to volunteer and part volunteer fire
22 companies and departments to help defray workers’
23 compensation insurance premium increases.

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

27 (A) The previous fiscal year’s workers’ compensation
28 premium invoices with paid receipts;

29 (B) The current fiscal year’s workers’ compensation
30 premium invoices showing the amount due and due date and
31 any applicable paid receipts; and

32 (C) Any other information the auditor may deem
33 necessary for administering the subsidy on such forms and
34 schedules as the auditor may direct. The auditor is
35 authorized to set up an electronic filing system at the
36 discretion of the auditor for filing of the aforementioned
37 information.

38 (D) For purposes of this section, “fiscal year” means the
39 fiscal year of this State.

40 (2) After determining that there is a premium increase
41 and the amount of the premium increase for the volunteer
42 company or department requesting the subsidy, the auditor
43 shall make disbursements in the manner set forth in
44 subsection (d) of this section subject to the following
45 requirements:

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

48 (B) The volunteer company or department must be
49 registered with the auditor’s office in a form and manner
50 prescribed by the auditor prior to being eligible for

51 consideration of any subsidy, which registration must be
52 completed no fewer than thirty days prior to the due date of
53 the workers' compensation premium;

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

59 (d) Beginning with the fiscal year that starts July 1, 2011,
60 and continuing in each fiscal year thereafter, after the auditor
61 has verified that a company or department is eligible for a
62 subsidy pursuant to this section, he or she shall pay on behalf
63 of that company or department its subsidy, which is
64 calculated by subtracting the individual base year premium
65 from the individual premium. In no event shall a company or
66 department receive a workers' compensation premium
67 subsidy greater than one hundred percent of its premium
68 increase.

69 (e) For fiscal years after the fiscal year beginning on July
70 1, 2011, the auditor shall consult with the insurance
71 commissioner to determine the total amount of workers'
72 compensation premium due by volunteer and part volunteer

73 fire companies and departments for any subsequent fiscal
74 year. The auditor may determine payment dates based upon
75 information reasonably available for such a determination.

76 (f) For the purposes of this section:

77 (1) “Individual base year premium” shall mean the
78 workers’ compensation insurance premium that became due
79 and payable by a volunteer company or department after June
80 30, 2010, but before July 1, 2011.

81 (2) “Individual premium” shall mean the workers’
82 compensation premium due and payable by a volunteer
83 company or department in each twelve month period
84 beginning on or after July 1, 2011.

85 (3) “Volunteer company or department” shall mean a
86 volunteer or part volunteer fire company or department that
87 was qualified to receive a distribution from the Fire
88 Protection Fund pursuant to section thirty-three, article three,
89 chapter thirty-three of this code on July 1, 2010 and is, at the
90 time of the distribution under this section, eligible to receive
91 distributions from the Fire Protection Fund.

92 (g) The auditor may promulgate emergency rules and
93 may propose for promulgation legislative rules, in
94 accordance with the provisions of article three, chapter

95 twenty-nine-a of this code, as are necessary to provide for
96 implementation and enforcement of the provisions of this
97 section.

98 (h) The implementation of the provisions of this section
99 shall undergo a review to assess its effectiveness after three
100 years of operation. The auditor shall submit a report to the
101 Legislature not later than June 30, 2013, and provide details
102 of the implementation, including funds distributed and
103 departments taking advantage of the subsidy, as well as the
104 assessment of its effectiveness.

105 (i) No provision of this section may be construed to
106 require the auditor to provide funding for the purposes of this
107 section in any amount in excess of the moneys available in
108 the Volunteer Fire Department Workers' Compensation
109 Premium Subsidy Fund.

110 (j) Upon the conclusion of the fiscal year ending June 30,
111 2014, the provisions of this section shall expire and be of no
112 further force and effect, the Volunteer Fire Department
113 Workers' Compensation Premium Subsidy Fund shall be
114 closed, and any balances remaining in the fund shall be
115 distributed as provided in section thirty-three-a, article three,
116 chapter thirty-three of this code.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

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

1 (a) Beginning July 1, 2011, and in each fiscal year
2 thereafter until June 30, 2014, the excess of the aggregate of
3 amounts collected by the commissioner that are otherwise
4 required under any provision of this code to be deposited into
5 the Fire Protection Fund over the aggregate of those amounts
6 deposited into the Fire Protection Fund during the fiscal year
7 ending June 30, 2011, shall be deposited into the Volunteer
8 Fire Department Workers' Compensation Premium Subsidy
9 Fund established pursuant to section fourteen-a, article four,
10 chapter twelve of this code and expended solely for the
11 purposes established in that section.

12 (b) On or before August 1, 2011, the commissioner shall
13 transfer \$7.5 million from the premium tax savings fund
14 created under section thirteen, article twelve, chapter twenty-
15 nine of this code to the Volunteer Fire Department Workers'
16 Compensation Premium Subsidy Fund and expended solely
17 for the purposes established in section fourteen-a, article
18 four, chapter twelve of this code until June 30, 2014.

19 (c) The State Fire Marshal, in consultation with the
20 commissioner and the Secretary of Revenue, shall conduct a
21 review of the needs of each volunteer or part volunteer fire
22 company or department serving in the various counties of the
23 state. On or before June 30, 2013, the State Fire Marshal
24 shall submit to the Joint Committee on Government and
25 Finance a comprehensive report of the review and the State
26 Fire Marshal's recommendations, substantiated by the
27 findings of the review, of steps that may be taken to meet the
28 needs of the volunteer and part volunteer fire companies and
29 departments, including, but not limited to, the following:

30 (1) An assessment of all current funding received by the
31 volunteer companies and departments, and a further
32 assessment of the funding necessary to provide the
33 community protections required for the areas served by the
34 volunteer companies and departments, the extent to which
35 those needs are being met, the extent to which they are not
36 being met, and recommendations of sources of funds to meet
37 additional needs and the amounts needed, if any;

38 (2) An assessment of the cost of workers' compensation
39 coverage for the volunteer companies and departments and
40 recommendations for any actions that may be undertaken by

41 the volunteer companies and departments and others to
42 reduce those costs;

43 (3) An assessment of the causes of any decline in
44 recruitment and retention of volunteer firefighters and
45 recommendations for improvements in this area, including
46 any recommendations for incentives that have a demonstrated
47 record of significant increases in recruitment and retention as
48 well as recommendations of sources of funds to provide
49 those incentives, if funds are necessary;

50 (4) An assessment of the level of financial accountability
51 that should be required of volunteer companies and
52 departments in order to provide the Legislature the
53 information necessary to target future funding for their
54 activities based upon the safety and fire protection needs of
55 the various areas of the state;

56 (5) An assessment of the comparative levels of funding
57 for volunteer companies and departments provided by
58 counties, municipalities and other political subdivisions and
59 the means by which that funding is provided, including
60 identification of those which contribute little or no funding to
61 the volunteer companies and departments within their

62 jurisdictions, together with recommendations for increasing
63 those levels of contributions;

64 (6) An assessment of the comparative levels of funding
65 for volunteer companies and departments provided by their
66 own efforts, and the means by which that funding is
67 provided, including identification of those which provide
68 little or no funding through their own efforts, together with
69 recommendations for increasing these sources of funding;

70 (7) An assessment of the comparative economic and
71 other benefits provided by the various volunteer companies
72 and departments to their particular counties, municipalities
73 and other political subdivisions, as well as to citizens of the
74 local communities they serve;

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

77 (d) Upon the conclusion of the fiscal year ending June
78 30, 2014, the provisions of this section shall expire and be of
79 no further force and effect and the Volunteer Fire Department
80 Workers' Compensation Premium Subsidy Fund shall be
81 closed. Upon closure of the fund, from any balances therein
82 remaining, the state auditor shall first, to the extent available,
83 transfer to the Fire Protection Fund an amount equal to the

84 aggregate of funds deposited into the Volunteer Fire
85 Department Workers' Compensation Premium Subsidy Fund
86 during the fiscal years ending June 30, 2012, 2013 and 2014
87 pursuant to subsection (a) of this section that would
88 otherwise have been required to be deposited into the Fire
89 Protection Fund, and any balances thereafter remaining in the
90 Volunteer Fire Department Workers' Compensation
91 Premium Subsidy Fund shall expire to the general revenue
92 fund of the state.