

H. B. 103

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)

[By Request of the Executive]

[Introduced April 17, 2013.]

1
2
3
4
5
6
7
8
9
10 A BILL to amend and reenact §12-4-14a of the Code of West Virginia,
11 1931, as amended; and to amend said code by adding thereto a
12 new section, designated §33-3-33a, all relating to the
13 distribution of state funds to volunteer fire departments
14 under the Volunteer Fire Department Workers' Compensation
15 Subsidy Program; specifying that the subsidy provided to
16 volunteer fire departments to offset certain workers'
17 compensation premium increases applies to increases
18 attributable to the fire fighting service, rapid response
19 emergency medical service, ambulance service and diving
20 service components of the services provided by volunteer fire
21 departments; establishing the Volunteer Fire Department
22 Workers' Compensation Premium Subsidy Fund and directing that
23 certain moneys be deposited into the fund for the program;
24 requiring the State Fire Marshal, in consultation with the

1 Insurance Commissioner, State Auditor, Secretary of Revenue,
 2 and Legislative Auditor, to review, assess and prepare a
 3 comprehensive report to the joint committee on government and
 4 finance on or before December 31, 2015, of steps that may be
 5 taken to meet the needs of volunteer fire departments and
 6 companies; expiring §12-4-14a and §33-3-33a of this code on
 7 June 30, 2016; and providing for the closure of the fund.

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

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

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

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

15 **§12-4-14a. Workers' Compensation Subsidy for Volunteer Fire**
 16 **Departments; creation of program; Auditor to**
 17 **administer.**

18 (a) For the purposes of this section:

19 (1) "Fiscal year" means the fiscal year of the state.

20 (2) "Individual base year premium" means the ~~workers'~~
 21 ~~compensation insurance~~ individual premium that became due and
 22 payable by a volunteer fire department after June 30, 2010, but
 23 before July 1, 2011.

1 (3) "Individual premium" means the workers' compensation
2 insurance premium due and payable by a volunteer fire department
3 for fire fighting services, rapid response emergency medical
4 services, ambulance services or diving services provided by the
5 volunteer fire department in each twelve month period beginning on
6 or after July 1, 2011.

7 (4) "Total base year premium" means the aggregate workers'
8 compensation insurance premium due and payable by all volunteer
9 fire departments for fire fighting services, rapid response
10 emergency medical services, ambulance services or diving services
11 provided by the volunteer fire departments as determined by the
12 Insurance Commissioner after June 30, 2010, but before July 1,
13 2011.

14 (5) "Total premium" means the aggregate workers' compensation
15 insurance premium due and payable by all volunteer fire departments
16 for fire fighting services, rapid response emergency medical
17 services, ambulance services or diving services provided by the
18 volunteer fire departments in each twelve month period beginning on
19 or after July 1, 2011.

20 (b) In recognition of the burden of increasing workers'
21 compensation insurance premiums on volunteer fire departments, the
22 Legislature has determined that additional funding assistance
23 should be made available to eligible departments to pay a portion
24 of those premium increases beginning with invoices due and payable

1 on or after July 1, 2011.

2 (c) There is hereby established a special program which shall
3 be known as the "Volunteer Fire Department Workers' Compensation
4 Subsidy Program." The program shall be administered by the State
5 Auditor from moneys that may be appropriated and designated for the
6 program by the Legislature pursuant to this section and section
7 thirty-three-a, article three, chapter thirty-three of this code.

8 (d) The State Auditor shall administer the distribution of
9 moneys appropriated for the Volunteer Fire Department Workers'
10 Compensation Subsidy Program to volunteer fire departments to help
11 defray workers' compensation insurance premium increases.

12 (1) Volunteer fire departments shall request supplemental
13 funds by submitting to the Auditor the following information:

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

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

19 (C) Any other information the Auditor deems necessary for
20 administering the subsidy on forms and schedules as the Auditor
21 directs. The Auditor is authorized to set up an electronic filing
22 system at his or her discretion for filing of the aforementioned
23 information.

24 (2) After determining that there is a premium increase and the

1 amount of the premium increase for the volunteer fire department
2 requesting the subsidy, the Auditor shall make disbursements in the
3 manner set forth in subsection (e) of this section subject to the
4 following requirements:

5 (A) The volunteer fire department must be in good standing
6 with the State Fire Marshal;

7 (B) The volunteer fire department must be registered with the
8 Auditor's Office in a form and manner prescribed by the Auditor
9 prior to being eligible for consideration of any subsidy, which
10 registration must be completed no fewer than thirty days prior to
11 the due date of the workers' compensation premium;

12 (C) The volunteer fire department must agree that the subsidy
13 for its workers' compensation insurance premium increase will be
14 paid directly to its insurance carrier by the Auditor and that it
15 will timely pay the balance of the premium due; and

16 (D) Should a volunteer fire department fail to pay the balance
17 of its workers' compensation insurance premium after a disbursement
18 by the Auditor and that insurance policy is subsequently cancelled,
19 the premium paid by the Auditor shall be returned directly to him
20 or her. If the Auditor does not receive a reimbursement for a
21 cancelled policy, he or she shall seek reimbursement for the
22 subsidy portion of the insurance premium from the State Treasurer
23 when the Treasurer makes the next quarterly payment to the
24 volunteer fire department pursuant to sections thirty-three and

1 fourteen-d, article three, chapter thirty-three of this code.

2 (e) Beginning with the fiscal year that starts July 1, 2011,
3 and continuing in each fiscal year thereafter, after the Auditor
4 has verified that a volunteer fire department is eligible for a
5 subsidy pursuant to this section, he or she shall pay on behalf of
6 a volunteer fire department its subsidy, which is calculated by:

7 (1) Dividing the total amount of premium subsidy allocated by
8 the Legislature to the Volunteer Fire Department Workers'
9 Compensation Subsidy Program by the total premium minus the total
10 base year premium, which calculation produces the "total shortfall
11 multiplier"; and

12 (2) Multiplying the total shortfall multiplier determined in
13 subdivision (1) of this subsection by the individual premium less
14 the individual base year premium.

15 (3) In no event shall a volunteer fire department receive a
16 workers' compensation premium subsidy greater than one hundred
17 percent of its premium increase.

18 (f) For fiscal years after July 1, 2011, the Auditor shall
19 consult with the Insurance Commissioner to determine the total
20 amount of workers' compensation premium due by volunteer fire
21 departments for any subsequent fiscal year. The Auditor may
22 determine payment dates based upon information reasonably available
23 for such a determination.

24 (g) The Auditor may promulgate emergency rules and may propose

1 for promulgation legislative rules, in accordance with the
2 provisions of article three, chapter twenty-nine-a of this code, as
3 are necessary to provide for implementation and enforcement of the
4 provisions of this section.

5 (h) The volunteer fire departments' workers' compensation
6 premium subsidy program shall undergo a review to assess its
7 effectiveness after three years of operation. The Auditor shall
8 submit a report to the Joint Committee on Government and Finance
9 not later than February 1, 2015, and provide details of the program
10 operation including funds distributed and departments taking
11 advantage of the subsidy.

12 **CHAPTER 33. INSURANCE.**

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

14 **§33-3-33a. Excess moneys of Fire Protection Fund deposited into**
15 **Volunteer Fire Department Workers' Compensation**
16 **Premium Subsidy Fund; other funding; special report**
17 **from State Fire Marshal by December 15, 2015;**
18 **termination of program June 30, 2016.**

19 (a) There is hereby established a special fund in the State
20 Treasury known as the "Volunteer Fire Department Workers'
21 Compensation Premium Subsidy Fund." The fund shall be administered
22 by the State Auditor and shall consist of moneys deposited in the
23 fund pursuant to this section, any other funds appropriated by the

1 Legislature for volunteer fire departments for the purposes of
2 section fourteen-a, article four, chapter twelve of this code, and
3 the interest or other earnings on the moneys in the fund. The
4 State Auditor shall administer the distribution of moneys of the
5 fund to volunteer fire departments to help defray workers'
6 compensation insurance premium increases pursuant to section
7 fourteen-a, article four, chapter twelve of this code. Balances in
8 the fund at the end of any fiscal year shall not expire, but shall
9 be expended for those purposes in ensuing fiscal years pursuant to
10 appropriation of the Legislature.

11 (b) Beginning July 1, 2013, and in each fiscal year thereafter
12 until June 30, 2016, the excess of the aggregate of amounts
13 collected by the commissioner that are otherwise required under any
14 provision of this code to be deposited into the Fire Protection
15 Fund over the aggregate of those amounts deposited into the Fire
16 Protection Fund during the fiscal year ending June 30, 2013, shall
17 be deposited into the Volunteer Fire Department Workers'
18 Compensation Premium Subsidy Fund and expended solely for the
19 purposes established in section fourteen-a, article four, chapter
20 twelve of this code.

21 (c) On or before August 1, 2013, the commissioner shall
22 transfer \$4 million from the Fire Marshal Fees Fund created under
23 section twelve-b, article three, chapter twenty-nine of this code
24 to the Volunteer Fire Department Workers' Compensation Premium

1 Subsidy Fund to be expended solely for the purposes established in
2 section fourteen-a, article four, chapter twelve of this code until
3 June 30, 2016.

4 (d) The State Fire Marshal, in consultation with the Insurance
5 Commissioner, the State Auditor, the Secretary of Revenue and the
6 Legislative Auditor, shall conduct a review of the needs of each
7 volunteer or part volunteer fire company or volunteer fire
8 department serving in the various counties of the state. On or
9 before December 31, 2015, the State Fire Marshal shall submit to
10 the Joint Committee on Government and Finance a comprehensive
11 report of the review and the State Fire Marshal's recommendations,
12 substantiated by the findings of the review, of steps that may be
13 taken to meet the needs of and sustain the volunteer and part
14 volunteer fire companies and volunteer fire departments of this
15 state, including, but not limited to, the following:

16 (1) An assessment of all current funding received by the
17 volunteer fire companies and departments, and a further assessment
18 of the funding necessary to provide the community protections
19 required for the areas served by the volunteer fire companies and
20 departments, the extent to which those needs are being met, the
21 extent to which they are not being met, and recommendations of
22 sources of funds to meet additional needs and the amounts needed,
23 if any;

24 (2) An assessment of the cost of workers' compensation

1 coverage for the volunteer fire companies and departments and
2 recommendations for any actions that may be undertaken by the
3 volunteer fire companies and departments and others to reduce those
4 costs;

5 (3) An assessment of the causes of any decline in recruitment
6 and retention of volunteer firefighters and recommendations for
7 improvements in this area, including any recommendations for
8 incentives that have a demonstrated record of significant increases
9 in recruitment and retention as well as recommendations of sources
10 of funds to provide those incentives, if funds are necessary;

11 (4) An assessment of the level of financial accountability
12 that should be required of volunteer fire companies and departments
13 in order to provide the Legislature the information necessary to
14 target future funding for their activities based upon the safety
15 and fire protection needs of the various areas of the state;

16 (5) An assessment of the comparative levels of funding for
17 volunteer fire companies and departments provided by counties,
18 municipalities and other political subdivisions and the means by
19 which that funding is provided, including identification of those
20 which contribute little or no funding to the volunteer fire
21 companies and departments within their jurisdictions, together with
22 recommendations for increasing those levels of contributions;

23 (6) An assessment of the comparative levels of funding for
24 volunteer fire companies and departments provided by their own

1 efforts, and the means by which that funding is provided, including
2 identification of those which provide little or no funding through
3 their own efforts, together with recommendations for increasing
4 these sources of funding;

5 (7) An assessment of the comparative economic and other
6 benefits provided by the various volunteer fire companies and
7 departments to their particular counties, municipalities and other
8 political subdivisions, as well as to citizens of the local
9 communities they serve;

10 (8) An assessment of the sustainability of the current model
11 of providing fire and other protections to the citizens of rural
12 communities through volunteer fire companies and departments and an
13 assessment of alternative models for providing those protections;
14 and

15 (9) Other assessments and recommendations which the State Fire
16 Marshal deems appropriate in the circumstances.

17 (d) Upon the conclusion of the fiscal year ending June 30,
18 2016, the provisions of this section and section fourteen-a,
19 article four, chapter twelve of this code shall expire and be of no
20 further force and effect and the Volunteer Fire Department Workers'
21 Compensation Premium Subsidy Fund shall be closed. Upon closure of
22 the fund, from any balances therein remaining, the State Auditor
23 shall first, to the extent available, transfer to the Fire
24 Protection Fund an amount equal to the aggregate of funds deposited

1 into the Volunteer Fire Department Workers' Compensation Premium
2 Subsidy Fund during the fiscal years ending June 30, 2014, 2015 and
3 2016 pursuant to subsection (b) of this section that would
4 otherwise have been required to be deposited into the Fire
5 Protection Fund, and any balances thereafter remaining in the
6 Volunteer Fire Department Workers' Compensation Premium Subsidy
7 Fund shall expire to the General Revenue Fund of the state.

NOTE: The purpose of the bill is to provide for distribution of certain state funds to volunteer fire departments under a Volunteer Fire Department Workers' Compensation Subsidy Program.

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

§33-3-33a is new; therefore, it has been completely underscored.