

H. B. 4590

(By Delegate Walters)

[Introduced February 17, 2014; referred to the
Committee on Finance.]

A BILL to amend and reenact §33-2-21a of the Code of West Virginia, 1931, as amended, relating to the Volunteer Fire Departments Workers' Compensation Subsidy Program and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; and providing for the merger of the purposes and provisions of that subsidy program and the subsidy fund in the state agency workers' compensation programs section of the code.

Be it enacted by the Legislature of West Virginia:

That §33-2-21a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. INSURANCE COMMISSIONER.

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

(a) The intent of this section is to provide a means of managing workers' compensation coverage for persons directly

1 employed by the State of West Virginia and the Volunteer Fire
2 Departments Workers' Compensation Subsidy Program and the Volunteer
3 Fire Department Workers' Compensation Premium Subsidy Fund. For
4 the purposes of this section:

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

18 (2) "Executive state entity" means the Governor's Office and
19 its affiliated entities, Bureau of Senior Services, or any state
20 department, division, fund, office, position, system, survey or
21 other entity of state government, however designated, transferred
22 to and incorporated in one of the executive departments created in
23 section two, article one, chapter five-f of this code, except the
24 State Police, and that is required by section twelve, article two,

1 chapter eleven-b of this code to provide a detailed expenditure
2 schedule to the Secretary of Revenue in his or her capacity as
3 Director of the Budget.

4 (b) Notwithstanding any provision of this code to the
5 contrary, the commissioner has sole responsibility for managing the
6 workers' compensation risks of all executive state entities and for
7 supervising and controlling the workers' compensation programs for
8 such entities: *Provided*, That any discretionary participant may
9 participate in the program upon application to the commissioner
10 under the same terms and conditions as are applicable to executive
11 state entities: *Provided*, ~~further~~ however, That a discretionary
12 participant is, in accordance with rules governing the program,
13 permitted to withdraw from continued participation in the program.

14 (c) The commissioner may assess such fees or surcharges on
15 participants in the program necessary to manage the workers'
16 compensation risks of those participants. All premiums, fees and
17 surcharges shall be established in accordance with generally
18 acceptable actuarial standards applicable to workers' compensation
19 coverage as to each participant and as to all participants in the
20 aggregate. The commissioner shall establish criteria for
21 assessments of premiums, fees and surcharges designed to provide
22 the most cost efficient coverage for all participants.

23 (d) The provisions of article three, chapter five-a of this
24 code relating to the Purchasing Division of the Department of

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

5 (e) (1) There is hereby established the "State Entities
6 Workers' Compensation Program Fund." All premiums, surcharges,
7 assessments, deposits or any other moneys or funds deposited or
8 otherwise designated or accruing to the fund as well as all
9 earnings payable to it, shall be deposited in the State Treasury to
10 the credit of the fund. Expenditures from the fund shall be for
11 the purposes set forth in this section, are authorized from
12 collections, and shall not revert to the General Fund. The fund
13 shall be a separate and distinct fund upon the books and records of
14 the Auditor and Treasurer, and disbursements therefrom shall be
15 made upon requisitions signed by the Insurance Commissioner:
16 Provided, That notwithstanding any provision of this section to the
17 contrary, effective July 1, 2014, the "Volunteer Fire Department
18 Workers' Compensation Subsidy Program" created by section fourteen-
19 a, article four, chapter twelve of this code, and the "Volunteer
20 Fire Department Workers' Compensation Premium Subsidy Fund" created
21 by section thirty-three-a, article three of this chapter and all of
22 the provisions and purposes of those sections, shall be merged with
23 this section.

24 (2) Any premiums, assessments or deposits or any other moneys

1 or funds received for the purposes of this section shall be
2 invested by the State Treasurer at the request of the commissioner.

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

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

18 (g) The commissioner shall submit reports on the status and
19 progress of the program established in this section to the Joint
20 Committee on Government and Finance monthly and upon request,
21 together with any other specific information on the program
22 requested by the committee.

23 (h) The commissioner shall consult with the state Board of
24 Risk and Insurance Management to solicit any applicable experience

1 and expertise in establishing and managing a program to provide
2 insurance coverage to state agencies.

NOTE: The purpose of this bill is to provide for the merger of the purposes and provisions of the Volunteer Fire Departments Workers' Compensation Subsidy Program and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund, in §12-4-14A and §33-3-33a of the code, in the state agency workers' compensation programs so that there is no duplication of the purposes of the subsidy program.

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