

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4547

BY DELEGATES WALTERS, MCCUSKEY, WESTFALL, R.

PHILLIPS, ZATEZALO, MOORE, P. WHITE, GEARHEART,

CANTERBURY, HANSHAW AND HOWELL

[Introduced February 16, 2016; Referred

to the Committee on Finance.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. INSURANCE COMMISSIONER.

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

1 (a) The intent of this section is to provide a means of managing workers' compensation
 2 coverage for persons directly employed by the State of West Virginia and the Volunteer Fire
 3 Departments Workers' Compensation Subsidy Program and the Volunteer Fire Department
 4 Workers' Compensation Premium Subsidy Fund. For the purposes of this section:

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

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

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

21 (b) Notwithstanding any provision of this code to the contrary, the commissioner has sole
22 responsibility for managing the workers' compensation risks of all executive state entities and for
23 supervising and controlling the workers' compensation programs for such entities: *Provided*, That
24 any discretionary participant may participate in the program upon application to the commissioner
25 under the same terms and conditions as are applicable to executive state entities: *Provided*,
26 ~~further~~ however, That a discretionary participant is, in accordance with rules governing the
27 program, permitted to withdraw from continued participation in the program.

28 (c) The commissioner may assess such fees or surcharges on participants in the program
29 necessary to manage the workers' compensation risks of those participants. All premiums, fees
30 and surcharges shall be established in accordance with generally acceptable actuarial standards
31 applicable to Workers Compensation coverage as to each participant and as to all participants in
32 the aggregate. The commissioner shall establish criteria for assessments of premiums, fees and
33 surcharges designed to provide the most cost efficient coverage for all participants.

34 (d) The provisions of article three, chapter five-a of this code relating to the Purchasing
35 Division of the Department of Administration do not apply to any contract entered into by the
36 commissioner in furtherance of the requirements of this section: *Provided*, That those contracts
37 shall be awarded on a competitive basis.

38 (e) (1) There is hereby established the "State Entities Workers' Compensation Program
39 Fund." All premiums, surcharges, assessments, deposits or any other moneys or funds deposited
40 or otherwise designated or accruing to the fund as well as all earnings payable to it, shall be
41 deposited in the State Treasury to the credit of the fund. Expenditures from the fund shall be for

42 the purposes set forth in this section, are authorized from collections, and shall not revert to the
43 General Fund. The fund shall be a separate and distinct fund upon the books and records of the
44 Auditor and Treasurer, and disbursements therefrom shall be made upon requisitions signed by
45 the Insurance Commissioner: Provided, That notwithstanding any provision of this section to the
46 contrary, effective July 1, 2016, the "Volunteer Fire Department Workers' Compensation Subsidy
47 Program" created by section fourteen-a, article four, chapter twelve of this code, and the
48 "Volunteer Fire Department Workers' Compensation Premium Subsidy Fund" created by section
49 thirty-three-a, article three of this chapter and all of the provisions and purposes of those sections,
50 shall be merged with this section.

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

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

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

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

68 (h) The commissioner shall consult with the state Board of Risk and Insurance
69 Management to solicit any applicable experience and expertise in establishing and managing a
70 program to provide 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 a heading or the present law, and underscoring indicates new language that would be added.