

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2389

BY DELEGATES HOWELL, FAST AND PHILLIPS

[Introduced February 13, 2017; Referred
to the Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §11-21-45; to amend said code by adding thereto a new section, designated
 3 §11-24-11c; and to amend said code by adding thereto a new section, designated §23-2-
 4 18, all relating to workers' compensation insurance; allowing an employer to extend
 5 workers' compensation coverage to an employee engaged in volunteer fire fighting and
 6 allowing employers a tax credit for the cost of providing workers' compensation insurance
 7 coverage to employees engaged in volunteer fire fighting.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §11-21-45; that said code be amended by adding thereto a new section,
 3 designated §11-24-11c; and that said code be amended by adding thereto a new section,
 4 designated §23-2-18, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX

§11-21-45. Credit for extending workers' compensation coverage to volunteer firefighters.

1 For any employer not subject to the tax imposed by article twenty-four of this chapter, a
 2 credit shall be allowed against the primary tax liability imposed by this article equal to one hundred
 3 percent of the increase in cost to the employer from providing workers' compensation coverage
 4 to an employee for volunteer fire fighting services, pursuant to section eighteen, article two,
 5 chapter twenty-three of this code.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-11c. Credit for extending workers' compensation coverage to volunteer
firefighters.

1 A credit shall be allowed against the primary tax liability imposed by this article equal to
 2 one hundred percent of the increase in cost to an employer from providing workers' compensation

3 coverage to an employee for volunteer fire fighting services, pursuant to section eighteen, article
4 two, chapter twenty-three of this code.

CHAPTER 23. WORKERS' COMPENSATION.

**ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO THIS CHAPTER;
EXTRATERRITORIAL COVERAGE.**

§23-2-18. Employer coverage of volunteer firefighters.

1 (a) This section shall be known and may be cited as the "Volunteer Fire Department
2 Workers' Compensation Cost Reduction Act."

3 (b) Notwithstanding any other provision of this code, an employer subject to the
4 requirements of this article may extend workers' compensation insurance coverage to an
5 employee for any volunteer fire fighting services that the employee performs. A volunteer fire
6 department is not required to extend workers' compensation insurance coverage to a volunteer
7 firefighter while the volunteer firefighter is covered by an employer pursuant to this section.

8 (c) Upon extending workers' compensation insurance coverage to an employee for
9 volunteer fire fighting services and every six months thereafter, an employer shall provide a
10 notarized affidavit to the volunteer fire company verifying that the employee is covered for the
11 next six months. The volunteer fire fighting department shall keep the affidavit on file and shall
12 forward a copy of the affidavit to the State Fire Marshal.

13 (d) A volunteer firefighter insured pursuant to this section shall immediately notify the
14 volunteer fire department in writing if any of the following events occur:

15 (1) An employer rescinds coverage provided pursuant to this section.

16 (2) The volunteer firefighter's employment is terminated by the employer providing
17 coverage pursuant to this section.

18 (3) The volunteer firefighter resigns from employment with an employer providing
19 coverage pursuant to this section.

20 (e) Any individual who fails to report a rescission of coverage or a change in employment

21 status, as required by subsection (d), is subject to a fine of not more than \$1,000, to be assessed
22 by the Insurance Commissioner.

23 (f) In the event that a volunteer fire fighting department receives written notice from a
24 volunteer firefighter of a rescission of coverage or a change in employment status, as required by
25 subsection (d), the volunteer fire fighting department shall immediately provide workers'
26 compensation coverage to the volunteer firefighter in compliance with this article. Any volunteer
27 fire department that fails to comply with the requirements of this subsection is subject to a fine of
28 not more than \$1,000, to be assessed by the Insurance Commissioner.

29 (g) An employer providing coverage to a volunteer firefighter pursuant to this section is not
30 subject to civil or criminal liability for the actions of an employee while performing volunteer fire
31 fighting services.

32 (h) The Fire Marshal shall keep detailed records of all coverage provided pursuant to this
33 section and shall present an annual financial data report to the Joint Committee on Labor and
34 Worker Safety Issues.

NOTE: The purpose of this bill is to allow an employer to extend workers' compensation insurance coverage to an employee engaged in volunteer fire fighting and allowing employers a tax credit for the cost of providing workers' compensation insurance to employees engaged in volunteer fire fighting.

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