

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 625

SENATORS GAUNCH, MAYNARD, BOSO, CLEMENTS,

JEFFRIES, PALUMBO, SMITH, SYPOLT, AND WELD, *original*

sponsors

[Passed March 10, 2018; in effect 90 days from passage]

1 AN ACT to amend and reenact §5A-3-8 of the Code of West Virginia, 1931, as amended; to
2 amend said code by adding thereto a new section, designated §5A-3-8a; to amend and
3 reenact §5H-1-2 of said code; to amend and reenact §7-1-3d of said code; to amend and
4 reenact §16-4C-6 and §16-4C-8 of said code; to amend said code by adding thereto two
5 new sections, designated §16-4C-8a and §16-4C-24; to amend said code by adding
6 thereto a new section, designated §17-2A-8d; to amend said code by adding thereto three
7 new sections, designated §29-3-5e, §29-3-5f, and §29-3-8; to amend and reenact §29-3-
8 12 of said code; and to amend said code by adding thereto a new section, designated
9 §33-3-33b, all relating to creating the West Virginia Volunteer Fire and Rescue Act of 2018;
10 requiring Director of Purchasing Division make facilities and services of the division
11 available to fire departments and companies and certain emergency medical services
12 agencies; authorizing director to provide for implementation by legislative rules or other
13 agreement; authorizing payment of death benefits to survivors of firefighter, emergency
14 medical services, or law-enforcement provider who dies as a proximate result of the
15 performance of his or her duties; increasing death benefits to be paid; providing for written
16 designation of beneficiary to be made on forms prescribed by State Fire Marshal or
17 Commissioner of the Bureau for Public Health; requiring any county fire prevention units
18 to be formed and recognized under the regulations of the State Fire Commission for local
19 fire departments; increasing authorized reimbursement rate amount; providing exception
20 for incidents or accidents involving hazardous materials or extended search and rescue
21 and water rescue incidents; requiring payment of amounts owed as reimbursement within
22 75 days; authorizing written agreements between fire department or company and
23 responsible party; permitting fire company or department to proceed to recover costs if
24 payment or agreement not reached within 90 days; authorizing Commissioner of the
25 Bureau for Public Health to establish one or more statewide contracts for equipment and
26 supplies utilized by emergency medical services agencies; requiring statewide contracts

27 be made available to certain emergency medical services agencies; authorizing
28 development of uniform standards for equipment and supplies used by emergency
29 medical services agencies; giving legislative rule-making authority to Commissioner of the
30 Bureau for Public Health to implement provisions; requiring Commissioner of the Bureau
31 for Public Health to recognize and give full credit for all continuing education credits
32 approved or recognized by state or nationally recognized accrediting body; establishing
33 courtesy certification program for certified emergency medical services personnel in states
34 bordering West Virginia; relieving courtesy certification applicants from requirement to
35 comply with state certification standards; authorizing rulemaking to implement courtesy
36 certification program; providing for biennial renewal of courtesy certification; authorizing
37 revocation of courtesy certification under certain conditions; establishing special revenue
38 fund known as Emergency Medical Services Equipment and Training Fund; authorizing
39 use of fund for grants to equip emergency medical services providers and train emergency
40 medical services personnel; requiring Commissioner of the Bureau for Public Health
41 establish grant program for equipment and training of emergency medical services
42 providers and personnel; setting eligibility and certain priorities for grant program; granting
43 rule-making authority to implement grant program; authorizing Commissioner of Division
44 of Highways enter into reimbursement agreements with certain fire departments for
45 services provided relating to tree or debris removal from state highways and rights-of-way;
46 setting conditions for and defining scope of reimbursement; retaining authority of
47 commissioner to properly remove and dispose of cleared trees, debris, or other obstacles;
48 granting legislative rule-making authority to implement reimbursement program; setting
49 minimum provisions for legislative rule; authorizing State Fire Marshal establish one or
50 more statewide contracts for equipment and supplies utilized by fire companies and
51 departments; requiring statewide contracts be made available to certain fire companies
52 and departments as well as any other agency or subdivision with a need for those

53 equipment or supplies; authorizing development of uniform standards for equipment and
54 supplies used by fire companies and departments; giving legislative rule-making authority
55 to State Fire Commission to implement provisions; establishing courtesy certification
56 program for certified firefighters in states bordering West Virginia to serve as volunteer
57 firefighters; relieving courtesy certification applicants from requirement to comply with
58 state certification standards for volunteer firefighters; authorizing rulemaking to implement
59 courtesy certification program; providing for biennial renewal of courtesy certification;
60 authorizing revocation of courtesy certification under certain conditions; establishing
61 special revenue fund known as Fire Service Equipment and Training Fund; authorizing
62 use of fund for grants to equip volunteer and part-volunteer fire companies and
63 departments and their members, and train volunteer and part-volunteer firefighters;
64 requiring State Fire Marshal establish grant program for equipment and training of
65 volunteer and part-volunteer fire companies and departments and volunteer firefighters;
66 setting eligibility and certain factors for State Fire Marshal to consider in making grants;
67 granting rule-making authority to implement grant program; requiring State Fire Marshal
68 prepare certain reports and make certain recommendations; requiring study and report
69 from Insurance Commissioner regarding issues related to workers' compensation for
70 volunteer and part-volunteer fire departments; eliminating obsolete language; and making
71 technical corrections.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-8. Facilities of division available to local governmental bodies.

1 The director shall make available the facilities and services of his or her division to
2 counties, county schools, municipalities, urban mass transportation authorities, created pursuant

3 to §8-27-1 *et seq.* of this code, mass transportation divisions of county and municipal
4 governments, fire departments, and other local governmental bodies within this state. The actual
5 expenses incurred thereby shall be paid by the local governmental body.

**§5A-3-8a. Facilities of division available to volunteer fire departments and emergency
medical services.**

1 The director shall make available the facilities and services of his or her division to fire
2 departments and companies, including volunteer and part-volunteer departments and companies,
3 as well as to emergency medical services agencies that are designated to provide emergency
4 response by one or more county emergency dispatch centers. The director shall provide, whether
5 by legislative rule proposed pursuant to §29-3-1 *et seq.* of this code or other agreement entered
6 into between the director and another governmental body or agency of the state, for the
7 implementation of this section.

CHAPTER 5H. SURVIVOR BENEFITS.

**ARTICLE 1. WEST VIRGINIA FIRE, EMS, AND LAW-ENFORCEMENT OFFICER
SURVIVOR BENEFIT ACT.**

§5H-1-2. Death benefit for survivors.

1 (a) In the event a firefighter, EMS, or law-enforcement provider dies as a proximate result
2 of the performance of, his or her duties, the department chief, within 30 days from the date of
3 death shall submit certification of the death to the Governor's Office.

4 (b) This act includes both paid and volunteer fire, EMS, and law-enforcement personnel
5 acting in the performance of his or her duties of any fire, EMS, or law-enforcement department
6 certified by the State of West Virginia.

7 (c) A firefighter, EMS, or law-enforcement provider is considered to be acting in the
8 performance of his or her duties for the purposes of this act when he or she is participating in any
9 role of a fire, EMS, or law-enforcement department function. This includes training, administration

10 meetings, fire, EMS, or law-enforcement incidents, service calls, apparatus, equipment or station
11 maintenance, fundraisers, and travel to or from such functions.

12 (d) Travel includes riding upon or in any apparatus or vehicle which is owned or used by
13 the fire, EMS, or law-enforcement department, or any other vehicle going to or directly returning
14 from a firefighter's home, place of business, or other place where he or she shall have been prior
15 to participating in a fire, EMS, or law-enforcement department function, or upon the authorization
16 of the chief of the department, agency head, or other person in charge.

17 (e) Certification shall include the name of the certified fire, EMS, or law-enforcement
18 program, the name of the deceased firefighter, EMS, or law-enforcement provider, the name and
19 address of the beneficiary, any documentation designating a beneficiary or beneficiaries, and
20 setting forth the circumstances that qualify the deceased individual for death benefits under this
21 act. Upon receipt of the certification from the certified fire, EMS, or law-enforcement program, the
22 state shall, from moneys from the State Treasury, General Fund, pay to the certified fire, EMS, or
23 law-enforcement program the sum of \$100,000 in the name of the beneficiary of the death benefit.
24 Within five days of receipt of this sum from the state, the fire, EMS, or law-enforcement program
25 certified by the state shall pay the sum as a benefit to the surviving spouse or designated
26 beneficiary. If there is no surviving spouse or designated beneficiary, then to the minor children
27 of the firefighter, EMS, or law-enforcement provider who died as a proximate result of the
28 performance of his or her duties. When no spouse, designated beneficiary, or minor children
29 survive, the benefit shall be paid to the parent or parents of the firefighter, EMS, or law-
30 enforcement provider. It is the responsibility of the certified fire or EMS program to document the
31 surviving spouse or beneficiary for purposes of reporting to the Governor's Office.

32 (f) Any death ruled by a physician to be a result of an injury sustained during any of the
33 above mentioned performance of fire department, EMS, or law-enforcement duties will be eligible
34 for this benefit, even if this death occurs at a later time.

35 (g) Those individuals who are covered by this article are eligible for only one death benefit
36 payment.

37 (h) Every department or agency head employing persons to which this article applies shall
38 provide notice of the benefit provided hereby to such employees and encourage covered
39 employees to provide a written designation of beneficiary to be maintained in the employee's
40 personnel file.

41 (i) Any person making application for certification as a firefighter to which this section
42 applies shall provide a written designation of beneficiary using forms and procedures prescribed
43 by the State Fire Marshal. Any person making application for emergency medical services
44 personnel certification to which this section applies shall provide a written designation of
45 beneficiary using forms and procedures prescribed by the Commissioner of the Bureau for Public
46 Health.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3d. Levy for, establishment, and operation of fire prevention units; financial aid.

1 (a) The county commission in any county may:

2 (1) Levy for and erect, maintain, and operate fire stations; and

3 (2) Form county fire prevention units, and supply equipment therefor in the county:

4 *Provided*, That if a county commission establishes a separate county fire prevention unit in any
5 city in West Virginia that is now operating under the provisions of the state civil service act for
6 paid fire departments, then the new unit shall be operated in accordance with the provisions of
7 the civil service act. Any such unit shall be formed and recognized under the regulations of the
8 State Fire Commission for local fire departments.

9 (b) Any county commission may render financial aid to any one or more public fire
10 protection facilities in operation in the county for the general benefit of the public in the prevention
11 of fires.

12 (c) Any county commission may also authorize volunteer fire companies or paid fire
13 departments to charge reasonable reimbursement fees for personnel and equipment used in
14 performing firefighting services, victim rescue, or cleanup of debris or hazardous materials by
15 department personnel.

16 (1) The rate for any such fees to be charged to property owners or other persons
17 responsible or liable for payment for such services must be approved by the county commission
18 and must be reasonable: *Provided*, That no fee for any single incident or accident shall exceed
19 \$1,500, except that the fee for an incident or accident involving hazardous materials or extended
20 search and rescue and water rescue incidents may exceed this amount based on the necessary
21 and reasonable costs incurred.

22 (2) The county commission shall require that any fees charged pursuant to the authority
23 conferred by this section must be in writing and be itemized by specific services rendered and the
24 rate for each service.

25 (3) Unless exempt by law, any person, partnership, corporation, or governmental agency
26 shall be fully responsible for all charges levied by this section within 75 days of the date of the
27 response resulting in such charge. Payment to the fire department or company rendering the
28 services shall be in full, unless a written agreement has been reached between the fire department
29 or company and the responsible party to establish a payment schedule to satisfy all charges.

30 (4) If payment for services rendered has not been received within 90 days from the date
31 of response, and if a payment schedule has not been established, a fire department or company
32 may proceed in magistrate court or in other appropriate court action to recover from the
33 responsible party all fees associated with the response, including attorney fees and court costs.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-6. Powers and duties of commissioner.

1 The commissioner has the following powers and duties:

2 (a) To propose rules for legislative approval in accordance with the provisions of §29A-3-
3 1 *et seq.* of this code: *Provided*, That the rules have been submitted at least 30 days in advance
4 for review by the Emergency Medical Services Advisory Council, who may act only in the
5 presence of a quorum. The rules may include:

6 (1) Standards and requirements for certification and recertification of emergency medical
7 service personnel, including, but not limited to:

8 (A) Age, training, testing, and continuing education;

9 (B) Procedures for certification and recertification, and for denying, suspending, revoking,
10 reinstating, and limiting a certification or recertification;

11 (C) Levels of certification and the scopes of practice for each level;

12 (D) Standards of conduct; and

13 (E) Causes for disciplinary action and sanctions which may be imposed.

14 (2) Standards and requirements for licensure and licensure renewals of emergency
15 medical service agencies, including:

16 (A) Operational standards, levels of service, personnel qualifications and training,
17 communications, public access, records management, reporting requirements, medical direction,
18 quality assurance and review, and other requirements necessary for safe and efficient operation;

19 (B) Inspection standards and establishment of improvement periods to ensure
20 maintenance of the standards;

21 (C) Fee schedules for licensure, renewal of licensure, and other necessary costs;

22 (D) Procedures for denying, suspending, revoking, reinstating, or limiting an agency
23 licensure;

24 (E) Causes for disciplinary action against agencies; and

25 (F) Administrative penalties, fines, and other disciplinary sanctions which may be imposed
26 on agencies;

27 (3) Standards and requirements for emergency medical services vehicles, including
28 classifications and specifications;

29 (4) Standards and requirements for training institutions, including approval or accreditation
30 of sponsors of continuing education, course curricula, and personnel;

31 (5) Standards and requirements for a State Medical Direction System, including
32 qualifications for a state emergency medical services medical director and regional medical
33 directors, the establishment of a State Medical Policy and Care Committee, and the designation
34 of regional medical command centers;

35 (6) Provision of services by emergency medical services personnel in hospital emergency
36 rooms;

37 (7) Authorization to temporarily suspend the certification of an individual emergency
38 medical services provider prior to a hearing or notice if the commissioner finds there is probable
39 cause that the conduct or continued service or practice of any individual certificate holder has or
40 may create a danger to public health or safety: *Provided*, That the commissioner may rely on
41 information received from a physician that serves as a medical director in finding that probable
42 cause exists to temporarily suspend the certification; and

43 (8) Any other rules necessary to carry out the provisions of this article;

44 (b) To apply for, receive, and expend advances, grants, contributions, and other forms of
45 assistance from the state or federal government or from any private or public agencies or
46 foundations to carry out the provisions of this article;

47 (c) To design, develop, and review a Statewide Emergency Medical Services
48 Implementation Plan. The plan shall recommend aid and assistance and all other acts necessary
49 to carry out the purposes of this article:

50 (1) To encourage local participation by area, county, and community officials, and regional
51 emergency medical services boards of directors; and

52 (2) To develop a system for monitoring and evaluating emergency medical services
53 programs throughout the state;

54 (d) To provide professional and technical assistance and to make information available to
55 regional emergency medical services boards of directors and other potential applicants or
56 program sponsors of emergency medical services for purposes of developing and maintaining a
57 statewide system of services;

58 (e) To assist local government agencies, regional emergency medical services boards of
59 directors, and other public or private entities in obtaining federal, state, or other available funds
60 and services;

61 (f) To cooperate and work with federal, state, and local governmental agencies, private
62 organizations, and other entities as may be necessary to carry out the purposes of this article;

63 (g) To acquire in the name of the state by grant, purchase, gift, devise, or any other
64 methods appropriate, real and personal property as may be reasonable and necessary to carry
65 out the purposes of this article;

66 (h) To make grants and allocations of funds and property so acquired or which may have
67 been appropriated to the agency to other agencies of state and local government as may be
68 appropriate to carry out the purposes of this article;

69 (i) To expend and distribute by grant or bailment funds and property to all state and local
70 agencies for the purpose of performing the duties and responsibilities of the agency all funds
71 which it may have so acquired or which may have been appropriated by the Legislature of this
72 state;

73 (j) To develop a program to inform the public concerning emergency medical services;

74 (k) To review and disseminate information regarding federal grant assistance relating to
75 emergency medical services;

76 (l) To prepare and submit to the Governor and Legislature recommendations for legislation
77 in the area of emergency medical services;

78 (m) To review, make recommendations for, and assist in all projects and programs that
79 provide for emergency medical services whether or not the projects or programs are funded
80 through the Office of Emergency Medical Services. A review and approval shall be required for
81 all emergency medical services projects, programs, or services for which application is made to
82 receive state or federal funds for their operation after the effective date of this act;

83 (n) To cooperate with the Department of Administration, Purchasing Division to establish
84 one or more statewide contracts for equipment and supplies utilized by emergency medical
85 services agencies in accordance with §5A-3-1 *et seq.* of this code:

86 (1) Any statewide contract established hereunder shall be made available to any
87 emergency medical services agency licensed under §16-4C-6a of this code that is designated to
88 provide emergency response by one or more county emergency dispatch centers.

89 (2) The office may develop uniform standards for equipment and supplies used by
90 emergency medical services agencies in accordance with §5A-3-1 *et seq.* of this code.

91 (3) The office shall propose legislative rules for promulgation in accordance with §29A-3-
92 1 *et seq.* of this code to effectuate the provisions of this subsection; and

93 (o) To take all necessary and appropriate action to encourage and foster the cooperation
94 of all emergency medical service providers and facilities within this state.

§16-4C-8. Standards for emergency medical services personnel.

1 (a) Every ambulance operated by an emergency medical services agency shall carry at
2 least two personnel. At least one person shall be certified in cardiopulmonary resuscitation or first
3 aid and the person in the patient compartment shall be certified as an emergency medical

4 technician-basic at a minimum except that in the case of a specialized multipatient medical
5 transport, only one staff person is required and that person shall be certified, at a minimum, at the
6 level of an emergency medical technician-basic. The requirements of this subsection will remain
7 in effect until revised by the legislative rule to be promulgated pursuant to §16-4C-8(b) of this
8 code.

9 (b) On or before May 28, 2010, the commissioner shall submit a proposed legislative rule
10 to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2010,
11 shall file the proposed legislative rule with the Office of the Secretary of State, in accordance with
12 the provisions of §29A-3-1 *et seq.* of this code, to establish certification standards for emergency
13 medical vehicle operators and to revise the requirements for emergency medical services
14 personnel.

15 (c) As of the effective date of the legislative rule to be promulgated pursuant to §16-4C-
16 8(b), emergency medical services personnel who operate ambulances shall meet the
17 requirements set forth in the legislative rule.

18 (d) Any person desiring emergency medical services personnel certification shall apply to
19 the commissioner using forms and procedures prescribed by the commissioner. Upon receipt of
20 the application, the commissioner shall determine whether the applicant meets the certification
21 requirements and may examine the applicant if necessary to make that determination.

22 (e) The applicant shall submit to a national criminal background check, the requirement of
23 which is declared to be not against public policy.

24 (1) The applicant shall meet all requirements necessary to accomplish the national
25 criminal background check, including submitting fingerprints, and authorizing the West Virginia
26 Office of Emergency Medical Services, the West Virginia State Police, and the Federal Bureau of
27 Investigation to use all records submitted and produced for the purpose of screening the applicant
28 for certification.

29 (2) The results of the national criminal background check may not be released to or by a
30 private entity.

31 (3) The applicant shall submit a fee of \$75 for initial certification and a fee of \$50 for
32 recertification. The fees set forth in this subsection remain in effect until modified by legislative
33 rule.

34 (f) An application for an original, renewal, or temporary emergency medical service
35 personnel certificate or emergency medical services agency license, shall be acted upon by the
36 commissioner and the certificate or license delivered or mailed, or a copy of any order of the
37 commissioner denying any such application delivered or mailed to the applicant, within 15 days
38 after the date upon which the complete application including test scores and background checks,
39 if applicable, was received by the commissioner.

40 (g) Any person may report to the commissioner or the Director of the Office of Emergency
41 Medical Services information he or she may have that appears to show that a person certified by
42 the commissioner may have violated the provisions of this article or legislative rules promulgated
43 pursuant to this article. A person who is certified by the commissioner, who knows of or observes
44 another person certified by the commissioner violating the provisions of this article or legislative
45 rules promulgated pursuant to this article, has a duty to report the violation to the commissioner
46 or director. Any person who reports or provides information in good faith is immune from civil
47 liability.

48 (h) The commissioner may issue a temporary emergency medical services personnel
49 certificate to an applicant, with or without examination of the applicant, when he or she finds that
50 issuance to be in the public interest. Unless suspended or revoked, a temporary certificate shall
51 be valid initially for a period not exceeding 120 and may not be renewed unless the commissioner
52 finds the renewal to be in the public interest.

53 (i) For purposes of certification or recertification of emergency medical services personnel,
54 the commissioner shall recognize and give full credit for all continuing education credits that have
55 been approved or recognized by any state or nationally recognized accrediting body.

**§16-4C-8a. Courtesy certification of emergency medical services personnel in surrounding
states.**

1 (a) It is the intention of the Legislature to permit individuals who have been certified as
2 emergency medical services personnel in a state bordering West Virginia to serve as emergency
3 medical services personnel in West Virginia.

4 (b) Beginning July 1, 2018, the Commissioner of the Bureau for Public Health shall
5 establish a process by which a courtesy certification to serve as an emergency medical responder
6 or emergency medical technician in this state may be issued to any person who satisfies the
7 following requirements:

8 (1) Is certified as an emergency medical responder or emergency medical technician, or
9 a similar certification, in good standing in a state bordering West Virginia;

10 (2) Complies with the application process and procedures established by the
11 Commissioner of the Bureau for Public Health; and

12 (3) Submits any required fee.

13 (c) Issuance of a courtesy certification shall not be withheld by the Commissioner of the
14 Bureau for Public Health based on an individual's failure to satisfy the minimum eligibility
15 requirements for emergency medical services personnel set forth in legislative rules promulgated
16 pursuant to §16-4C-6 of this code.

17 (d) The Commissioner of the Bureau for Public Health shall propose rules for legislative
18 approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the
19 provisions of this section.

20 (e) Any courtesy certification issued pursuant to this section may be revoked at any time
21 if the individual's certification in the bordering state is restricted, revoked, or otherwise expires.

22 (f) Any courtesy certification issued pursuant to this section must be renewed biennially.

§16-4C-24. Emergency Medical Services Equipment and Training Fund; establishment of grant program for equipment and training of emergency medical service providers and personnel.

1 (a) There is hereby created in the State Treasury a special revenue fund to be known as
2 the Emergency Medical Services Equipment and Training Fund. Expenditures from the fund by
3 the Office of Emergency Medical Services, Bureau for Public Health, Department of Health and
4 Human Resources are authorized from collections. The fund may only be used for the purpose of
5 providing grants to equip emergency medical services providers and train emergency medical
6 services personnel, as defined in §16-4C-3 of this code. Any balance remaining in the fund at the
7 end of any fiscal year does not revert to the General Revenue Fund but remains in the special
8 revenue fund.

9 (b) The Commissioner of the Bureau for Public Health shall establish a grant program for
10 equipment and training of emergency medical services providers and personnel. Such grant
11 program shall be open to all emergency medical services personnel and providers, but priority
12 shall be given to rural and volunteer emergency medical services providers.

13 (c) The Commissioner of the Bureau for Public Health shall propose legislative rules for
14 promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the grant program
15 established pursuant to this section.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-8d. Reimbursement for volunteer fire departments.

1 (a) In addition to the other powers given and assigned to him or her in this chapter, the
2 Commissioner of the Division of Highways may enter into reimbursement agreements, based
3 upon reasonable actual costs incurred, with volunteer or part-volunteer fire departments for

4 services provided by volunteer or part-volunteer fire departments relating to tree or debris removal
5 from state highways and rights-of-way when the commissioner requests such services.

6 (b) A volunteer or part-volunteer fire department may be reimbursed without a prior
7 request by the commissioner when the traveled way of a state highway is obstructed by a fallen
8 tree or other debris and the volunteer or part-volunteer fire department is the first responder:
9 *Provided*, That the volunteer or part-volunteer fire department subsequently enters into a
10 reimbursement agreement with the commissioner to recoup only the costs actually incurred to
11 clear the traveled way of the state highway to permit the public to safely travel upon it.

12 (c) The commissioner shall retain authority to properly remove and dispose of any cleared
13 trees, debris, or other obstructions cleared from the traveled way by a volunteer or part-volunteer
14 fire department, and the commissioner shall not reimburse a volunteer or part-volunteer fire
15 department for any final disposal of any cleared debris or obstruction.

16 (d) The commissioner shall not reimburse a volunteer or part-volunteer fire department for
17 services contracted out by the volunteer or part-volunteer fire department.

18 (e) The commissioner may propose rules for legislative approval in accordance with the
19 provisions of §29A-3-1 *et seq.* of this code to effectuate the purposes of the section. Any rule
20 promulgated pursuant to this section shall include provisions establishing minimum reporting,
21 auditing, and other necessary documentation requirements to approve reimbursement requests
22 submitted to the commissioner.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-5e. Courtesy certification of firefighters in surrounding states to serve as volunteer firefighter.

1 (a) It is the intention of the Legislature to permit individuals who have been certified as
2 professional or volunteer firefighters in a state bordering West Virginia to serve as volunteer
3 firefighters in West Virginia.

4 (b) Beginning July 1, 2018, the State Fire Marshal shall establish a process by which a
5 courtesy certification to serve as a volunteer firefighter in this state may be issued to any person
6 who satisfies the following requirements:

7 (1) Is a certified professional or volunteer firefighter in good standing in a state bordering
8 West Virginia;

9 (2) Complies with the application process and procedures established by the State Fire
10 Marshal; and

11 (3) Submits any required fee.

12 (c) Issuance of a courtesy certification shall not be withheld by the State Fire Marshal
13 based on an individual's failure to satisfy the training requirements for volunteer firefighters set
14 forth in legislative rules promulgated pursuant to §29-3-5d of this code.

15 (d) The State Fire Marshal shall propose rules for legislative approval in accordance with
16 the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this section.

17 (e) Any courtesy certification issued pursuant to this section may be revoked at any time
18 if the individual's certification in the bordering state is restricted, revoked, or otherwise expires.

19 (f) Any courtesy certification issued pursuant to this section must be renewed biennially.

§29-3-5f. Fire Service Equipment and Training Fund; creation of fire service equipment and training grant.

1 (a) There is hereby created in the State Treasury a special revenue fund to be known as
2 the Fire Service Equipment and Training Fund. Expenditures from the fund by the State Fire
3 Marshal are authorized from collections. The fund may only be used for the purpose of providing
4 grants to equip volunteer and part-volunteer fire companies and departments and their members,
5 and train volunteer and part-volunteer firefighters. Any balance remaining in the fund at the end
6 of any fiscal year does not revert to the General Revenue Fund but remains in the Special
7 Revenue Fund. The State Fire Marshal shall propose legislative rules for promulgation in

8 accordance with §29A-3-1 *et seq.* of this code to implement the grant program established
9 pursuant to this section.

10 (b) The State Fire Marshal shall establish a grant program for equipment and training for
11 volunteer and part-volunteer fire companies and departments. Such grant program shall be open
12 to all volunteer and part-volunteer fire companies and departments. In making grants pursuant to
13 this section, the State Fire Marshal shall consider:

14 (1) The number of emergency and nonemergency calls responded to by the department;

15 (2) The activities and responses of the department;

16 (3) The revenues received by the department from federal, state, county, municipal, local,
17 and other sources; and

18 (4) The department's assets, expenditures, and other liabilities, including whether the fire
19 company or department has availed itself of available statewide contracts.

20 (c) The State Fire Commission shall propose legislative rules for promulgation in
21 accordance with §29A-3-1 *et seq.* of this code to implement the grant program established
22 pursuant to this section.

§29-3-8. Comprehensive report by State Fire Marshal.

1 (a) On or before July 1, 2019, the State Fire Marshal shall submit a comprehensive report
2 to the Joint Committee on Government and Finance containing a recommended plan for
3 transferring authority and responsibility for providing fire services to the counties. Such report
4 shall include, but not be limited to, recommendations regarding recommended state oversight of
5 such fire services; financial support for fire services, a plan and timeline for transitioning
6 responsibility and oversight to the counties; and county authority, oversight, and accountability of
7 operations, fiscal planning, financial accountability, and risk management planning. The State Fire
8 Marshal shall solicit input from appropriate state agencies, county officials, and other interested
9 parties, which shall provide requested information to the State Fire Marshal to assist in
10 preparation of the report and recommendation.

11 (b) On or before July 1, 2019, the State Fire Marshal shall study, prepare, and submit a
12 report to the Joint Committee on Government and Finance regarding reciprocity of firefighter and
13 fire officer certification with other states. Such report shall include recommendations regarding
14 ways to increase availability of reciprocal certification, including any necessary changes to state
15 code or regulation necessary to facilitate additional reciprocity.

§29-3-12. Powers and duties of State Fire Marshal.

1 (a) *Enforcement of laws.* — The State Fire Marshal and any other person authorized to
2 enforce the provisions of this article under the supervision and direction of the State Fire Marshal
3 has the authority to enforce all laws of the state having to do with:

- 4 (1) Prevention of fire;
- 5 (2) The storage, sale, and use of any explosive, combustible, or other dangerous article
6 or articles in solid, flammable liquid, or gas form;
- 7 (3) The installation and maintenance of equipment of all sorts intended to extinguish,
8 detect, and control fires;
- 9 (4) The means and adequacy of exit, in case of fire, from buildings and all other places in
10 which persons work, live, or congregate, from time to time, for any purpose, except buildings used
11 wholly as dwelling houses for no more than two families;
- 12 (5) The suppression of arson; and
- 13 (6) Any other thing necessary to carry into effect the provisions of this article including, but
14 not limited to, confiscating any materials, chemicals, items, or personal property owned,
15 possessed, or used in direct violation of the State Fire Code.

16 (b) *Assistance upon request.* — Upon request, the State Fire Marshal shall assist any
17 chief of any recognized fire company or department. Upon the request of any federal law-
18 enforcement officer, state police officer, natural resources police officer, or any county or
19 municipal law-enforcement officer, the State Fire Marshal, any deputy state fire marshal, or
20 assistant state fire marshal employed pursuant to §29-3-11 of this code and any person deputized

21 pursuant to §29-3-12(j) of this code may assist in the lawful execution of the requesting officer's
22 official duties: *Provided*, That the State Fire Marshal, or other person authorized to act under this
23 subsection, shall at all times work under the direct supervision of the requesting officer.

24 (c) *Enforcement of rules.* — The State Fire Marshal shall enforce the rules promulgated
25 by the State Fire Commission as authorized by this article.

26 (d) *Inspections generally.* — The State Fire Marshal shall inspect all structures and
27 facilities, other than one- and two-family dwelling houses, subject to the State Fire Code and this
28 article, including, but not limited to, state, county, and municipally owned institutions, all public
29 and private schools, health care facilities, theaters, churches, and other places of public assembly
30 to determine whether the structures or facilities are in compliance with the State Fire Code.

31 (e) *Right of entry.* — The State Fire Marshal may, at all reasonable hours, enter any
32 building or premises, other than dwelling houses, for the purpose of making an inspection which
33 he or she may consider necessary under the provisions of this article. The State Fire Marshal and
34 any deputy state fire marshal or assistant state fire marshal approved by the State Fire Marshal
35 may enter upon any property, or enter any building, structure or premises, including dwelling
36 houses during construction and prior to occupancy, for the purpose of ascertaining compliance
37 with the conditions set forth in any permit or license issued by the office of the State Fire Marshal
38 pursuant to §29-3-12b(A)(1) of this code or of §29-3B-1 *et seq.* of this code.

39 (f) *Investigations.* — The State Fire Marshal may, at any time, investigate as to the origin
40 or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the
41 state. The State Fire Marshal has the authority at all times of the day or night, in performance of
42 the duties imposed by the provisions of this article, to investigate where any fires or explosions or
43 attempt to cause fires or explosions may have occurred, or which at the time may be burning.
44 Notwithstanding the above provisions of this subsection, prior to entering any building or premises
45 for the purposes of the investigation, the State Fire Marshal shall obtain a proper search warrant:
46 *Provided*, That a search warrant is not necessary where there is permissive waiver or the State

47 Fire Marshal is an invitee of the individual having legal custody and control of the property, building
48 or premises to be searched.

49 (g) *Testimony.* — The State Fire Marshal, in making an inspection or investigation when
50 in his or her judgment the proceedings are necessary, may take the statements or testimony
51 under oath of all persons who may be cognizant of any facts or have any knowledge about the
52 matter to be examined and inquired into and may have the statements or testimony reduced to
53 writing; and shall transmit a copy of the statements or testimony so taken to the prosecuting
54 attorney for the county wherein the fire or explosion or attempt to cause a fire or explosion
55 occurred. Notwithstanding the above, no person may be compelled to testify or give any statement
56 under this subsection.

57 (h) *Arrests; warrants.* — The State Fire Marshal, any full-time deputy fire marshal, or any
58 full-time assistant fire marshal employed by the State Fire Marshal pursuant to §29-3-11 of this
59 code is hereby authorized and empowered and any person deputized pursuant to §29-3-11 of
60 this code may be authorized and empowered by the State Fire Marshal:

61 (1) To arrest any person anywhere within the confines of the State of West Virginia, or
62 have him or her arrested, for any violation of the arson-related offenses of §61-3-1 *et seq.* of this
63 code or of the explosives-related offenses of §61-3e-1 *et seq.* of said code: *Provided,* That any
64 and all persons so arrested shall be forthwith brought before the magistrate or circuit court.

65 (2) To make complaint in writing before any court or officer having jurisdiction and obtain,
66 serve, and execute an arrest warrant when knowing or having reason to believe that anyone has
67 committed an offense under any provision of this article, of the arson-related offenses of §61-3-1
68 *et seq.* of this code or of the explosives-related offenses of §61-3e-1 *et seq.* of this code. Proper
69 return shall be made on all arrest warrants before the tribunal having jurisdiction over the violation.

70 (3) To make complaint in writing before any court or officer having jurisdiction and obtain,
71 serve, and execute a warrant for the search of any premises that may possess evidence or
72 unlawful contraband relating to violations of this article, of the arson-related offenses of §61-3-1

73 *et seq.* of this code or of the explosives-related offenses of §61-3e-1 *et seq.* of said code. Proper
74 return shall be made on all search warrants before the tribunal having jurisdiction over the
75 violation.

76 (i) *Witnesses and oaths.* — The State Fire Marshal is empowered and authorized to issue
77 subpoenas and subpoenas duces tecum to compel the attendance of persons before him or her
78 to testify in relation to any matter which is, by the provision of this article, a subject of inquiry and
79 investigation by the State Fire Marshal and cause to be produced before him or her such papers
80 as he or she may require in making the examination. The State Fire Marshal is hereby authorized
81 to administer oaths and affirmations to persons appearing as witnesses before him or her. False
82 swearing in any matter or proceeding aforesaid is considered perjury and is punishable as perjury.

83 (j) *Deputizing members of fire departments in this state.* — The State Fire Marshal may
84 deputize a member of any fire department, duly organized and operating in this state, who is
85 approved by the chief of his or her department and who is properly qualified to act as his or her
86 assistant for the purpose of making inspections with the consent of the property owner or the
87 person in control of the property and the investigations as may be directed by the State Fire
88 Marshal, and the carrying out of orders as may be prescribed by him or her, to enforce and make
89 effective the provisions of this article and any and all rules promulgated by the State Fire
90 Commission under authority of this article: *Provided*, That in the case of a volunteer fire
91 department, only the chief thereof or his or her single designated assistant may be so deputized.

92 (k) *Written report of examinations.* — The State Fire Marshal shall, at the request of the
93 county commission of any county or the municipal authorities of any incorporated municipality in
94 this state, make to them a written report of the examination made by him or her regarding any fire
95 happening within their respective jurisdictions.

96 (l) *Report of losses by insurance companies.* — It is the duty of each fire insurance
97 company or association doing business in this state, within 10 days after the adjustment of any
98 loss sustained by it that exceeds \$1,500, to report to the State Fire Marshal information regarding

99 the amount of insurance, the value of the property insured, and the amount of claim as adjusted.
100 This report is in addition to any information required by the State Insurance Commissioner. Upon
101 the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in
102 which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall
103 report in writing to the owner or insurer the result of the examination regarding the property.

104 (m) *Issuance of permits and licenses.* — The State Fire Marshal is authorized to issue
105 permits, documents, and licenses in accordance with the provisions of this article or §29-3B-1 *et*
106 *seq.* of this code: *Provided,* That unless otherwise provided, the State Fire Marshall shall take
107 final action upon any completed permit applications within 30 days of receipt if the application is
108 uncontested, or within 90 days if the application is contested. The State Fire Marshal may require
109 any person who applies for a permit to use explosives, other than an applicant for a license to be
110 a pyrotechnic operator under §29-3-24 of this code, to be fingerprinted and to authorize the State
111 Fire Marshal to conduct a criminal records check through the criminal identification bureau of the
112 West Virginia State Police and a national criminal history check through the Federal Bureau of
113 Investigation. The results of any criminal records or criminal history check shall be sent to the
114 State Fire Marshal.

115 (n) *Issuance of citations for fire and life safety violations.* — The State Fire Marshal, any
116 deputy fire marshal, and any assistant fire marshal employed pursuant to §29-3-11 of this code
117 are hereby authorized, and any person deputized pursuant to §29-3-12(j) of this code may be
118 authorized by the State Fire Marshal to issue citations, in his or her jurisdiction, for fire and life
119 safety violations of the State Fire Code and as provided for by the rules promulgated by the State
120 Fire Commission in accordance with §29-3-1 *et seq.* of this code: *Provided,* That a summary
121 report of all citations issued pursuant to this section by persons deputized under §29-3-12(j) of
122 this code shall be forwarded monthly to the State Fire Marshal in the form and containing
123 information as he or she may by rule require, including the violation for which the citation was
124 issued, the date of issuance, the name of the person issuing the citation, and the person to whom

125 the citation was issued. The State Fire Marshal may at any time revoke the authorization of a
126 person deputized pursuant to §29-3-12(j) of this code to issue citations, if in the opinion of the
127 State Fire Marshal, the exercise of authority by the person is inappropriate.

128 Violations for which citations may be issued include, but are not limited to:

129 (1) Overcrowding places of public assembly;

130 (2) Locked or blocked exits in public areas;

131 (3) Failure to abate a fire hazard;

132 (4) Blocking of fire lanes or fire department connections; and

133 (5) Tampering with, or rendering inoperable except during necessary maintenance or
134 repairs, on-premise firefighting equipment, fire detection equipment, and fire alarm systems.

135 (o) *Required training; liability coverage.* — No person deputized pursuant to §29-3-12(j) of
136 this code may be authorized to issue a citation unless that person has satisfactorily completed a
137 law-enforcement officer training course designed specifically for fire marshals. The course shall
138 be approved by the Law-enforcement Training Subcommittee of the Governor’s Committee on
139 Criminal Justice and Highway Safety and the State Fire Commission. In addition, no person
140 deputized pursuant to §29-3-12(j) of this code may be authorized to issue a citation until evidence
141 of liability coverage of the person has been provided, in the case of a paid municipal fire
142 department, by the municipality wherein the fire department is located, or in the case of a
143 volunteer fire department, by the county commission of the county wherein the fire department is
144 located or by the municipality served by the volunteer fire department and that evidence of liability
145 coverage has been filed with the State Fire Marshal.

146 (p) *Statewide contracts.* — The State Fire Marshal may cooperate with the Department of
147 Administration, Purchasing Division, to establish one or more statewide contracts for equipment
148 and supplies utilized by fire companies and departments in accordance with §5A-3-1 *et seq.* of
149 this code.

150 (1) Any statewide contract established hereunder shall be made available to any fire
151 company and department in this state, as well as any other state agency or political subdivision
152 that has a need for the equipment or supplies included in those contracts.

153 (2) The State Fire Marshal may develop uniform standards for equipment and supplies
154 used by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

155 (3) The State Fire Commission shall propose legislative rules for promulgation in
156 accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this subsection.

157 (q) *Penalties for violations.* — Any person who violates any fire and life safety rule of the
158 State Fire Code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less
159 than \$100 nor more than \$1,000, or confined in jail not more than 90 days, or both fined and
160 confined. Each and every day during which any violation of the provisions of this article continues
161 after knowledge or official notice that same is illegal is a separate offense.

CHAPTER 33. INSURANCE.

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

§33-3-33b. Report regarding volunteer firefighter workers' compensation coverage.

1 (a) The Insurance Commissioner, in consultation with the State Fire Marshal, the State
2 Auditor, the Legislative Auditor, and the Board of Risk and Insurance Management, shall study
3 the feasibility of combining the volunteer fire departments in our state under a single policy for
4 workers' compensation coverage, self-insuring workers' compensation coverage for volunteer fire
5 departments, or other workers' compensation coverage options. Such study shall also include an
6 evaluation of the benefit, necessity, and feasibility of expanding the current scope of workers'
7 compensation coverage for volunteers, including, but not limited to, presumptions for
8 cardiovascular or pulmonary disease, occupational pneumoconiosis, or other occupational
9 disease, as well as a comparison of those proposals to other means of supplementing workers'
10 compensation insurance through secondary insurance policies.

11 (b) On or before July 1, 2019, the Insurance Commissioner shall submit to the Joint
12 Committee on Government and Finance and the Joint Committee on Government Organization
13 a comprehensive report of the review and the Insurance Commissioner's recommendations,
14 substantiated by the findings of the review, and steps that may be taken to meet the needs of and
15 sustain the volunteer fire departments for their workers' compensation coverage.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2018.

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Governor