

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2681

BY DELEGATES WESTFALL, HOTT, ESPINOSA, BATES, L.

PACK AND ROWE

[BY REQUEST OF THE INSURANCE COMMISSIONER]

[Introduced February 23, 2021; Referred to the
Committee on Banking and Insurance then Finance]

1 A BILL to amend and reenact §23-2C-16 of the Code of West Virginia, 1931, as amended, relating
2 to authorizing the Insurance Commissioner to transfer moneys from the Insurance
3 Commission Fund, also known as the Commissioner's operating fund, into the Workers'
4 Compensation Old Fund to reduce any deficit balance of the Old Fund.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2C. EMPLOYERS' MUTUAL INSURANCE COMPANY.

**§23-2C-16. Administration of Old Fund, Uninsured Employer Fund, Self-Insured Employer
Guaranty Risk Pool, Self-Insured Employer Security Risk Pool and Private Carrier
Guaranty Fund.**

1 (a) Notwithstanding any provision of this code to the contrary, the company shall be the
2 initial third-party administrator of the Old Fund, Uninsured Employer Fund, Self-Insured Employer
3 Guaranty Risk Pool, Self-Insured Employer Security Risk Pool and Private Carrier Guaranty Fund
4 from the termination of the commission and thereafter for a term of at least six months but not
5 more than three years pursuant to an agreement to be entered into between the Insurance
6 Commissioner and the company prior to the termination of the commission. The company shall
7 be paid a reasonable fee for services provided. The company's administrative duties may include,
8 but not be limited to, receipt of all claims, processing said claims, providing for the payment of
9 said claims through the state Treasurer's office or other applicable state agency and ensuring,
10 through the selection and assignment of counsel, that claims decisions are properly defended.
11 The administration of said funds thereafter shall be subject to the procedures set forth in §5A-3-
12 1 et seq. of this code.

13 (b) The Insurance Commissioner shall review claims determined to be payable from said
14 funds and may contest the determination pursuant to the provisions of §23-5-1 et seq. of this
15 code.

16 (c) The Insurance Commissioner may conduct or cause to be conducted an annual audit
17 to be performed on said funds.

18 (d) The Insurance Commissioner may contract or employ counsel to perform legal
19 services related solely to the collection of moneys due the Old Fund, including the collection of
20 moneys due the Old Fund and enforcement of repayment agreements entered into for the
21 collection of moneys due on or before June 30, 2005, in any administrative proceeding and in any
22 state or federal court.

23 (e) During the fiscal years beginning July 1, 2019, ~~and July 1, 2020, July 1, 2021, July 1,~~
24 2022, and July 1, 2023, the Insurance Commissioner may, in his or her discretion, transfer special
25 revenue moneys contained in the Insurance Commission Fund to the Old Fund in any fiscal year
26 in which the Insurance Commissioner has determined, and an independent auditor has attested
27 thereto, that a deficit balance existed in the Old Fund for the prior fiscal year.

NOTE: The purpose of this bill is to create a source of funding for the Old Fund by authorizing the Insurance Commissioner to transfer unspent special revenue funds from the Insurance Commission Fund, also known as the Commissioner's operating account, to the Old Fund in order to reduce any deficit balance in the Old Fund. The Old Fund was statutorily created to pay compensable workers' compensation claims with a date of injury or last exposure on or before June 30, 2005 incurred as a liability to the state's former monopolistic workers' compensation system. The prior sources of funding for the Old Fund were eliminated via legislation in 2016, 2017 and 2018. The Old Fund currently has no funding source other than investment income earned on its capital. Legislation passed in 2020 allowed the Insurance Commissioner to transfer unspent special revenue funds from the Insurance Commissioner Fund to reduce the deficit balance in the Old Fund for Fiscal Years beginning July 1, 2019 and 2020. This bill would allow the Insurance Commission to continue to do so for Fiscal Years beginning July 1, 2021, 2022 and 2023.

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