

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5147**

By Delegates Mallow, Jennings, Adkins, DeVault,  
Heckert, Willis, and Summers

[Introduced January 25, 2024; Referred to the  
Committee on Fire Departments and Emergency  
Medical Services then Finance]

1 A BILL to amend and reenact §12-4-14a of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new section, designated §15A-11-12, all relating to  
 3 quantifying and ensuring fair workers' compensation rates and developing a more  
 4 equitable method of tracking and billing for the various classifications within volunteer fire  
 5 departments and emergency rescue personnel.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 4. ACCOUNTS, REPORTS, AND GENERAL PROVISIONS.**

**§12-4-14a. Workers' Compensation Subsidy for Volunteer Fire Departments; creation of  
 program; Auditor to administer.**

1 (a) For the purposes of this section:

2 (1) "Fiscal year" means the fiscal year of the state.

3 (2) "Individual base year premium" means the individual premium that became due and  
 4 payable by a volunteer fire department after June 30, 2010, but before July 1, 2011.

5 (3) "Individual premium" means the workers' compensation insurance premium due and  
 6 payable by a volunteer fire department for fire fighting services, rapid response emergency  
 7 medical services, ambulance services or diving services provided by the volunteer fire department  
 8 in each twelve month period beginning on or after July 1, 2011.

9 (4) "Total base year premium" means the aggregate workers' compensation insurance  
 10 premium due and payable by all volunteer fire departments for fire fighting services, rapid  
 11 response emergency medical services, ambulance services or diving services provided by the  
 12 volunteer fire departments as determined by the Insurance Commissioner after June 30, 2010, but  
 13 before July 1, 2011.

14 (5) "Total premium" means the aggregate workers' compensation insurance premium due  
 15 and payable by all volunteer fire departments for fire fighting services, rapid response emergency  
 16 medical services, ambulance services or diving services provided by the volunteer fire  
 17 departments in each twelve month period beginning on or after July 1, 2011.

18 (b) In recognition of the burden of increasing workers' compensation insurance premiums  
19 on volunteer fire departments, the Legislature has determined that additional funding assistance  
20 should be made available to eligible departments to pay a portion of those premium increases  
21 beginning with invoices due and payable on or after July 1, 2011.

22 (c) There is hereby established a special program which shall be known as the "Volunteer  
23 Fire Department Workers' Compensation Subsidy Program." The program shall be administered  
24 by the State Auditor from moneys that may be appropriated and designated for the program by the  
25 Legislature pursuant to this section and section thirty-three-a, article three, chapter thirty-three of  
26 this code.

27 (d) The State Auditor shall administer the distribution of moneys appropriated for the  
28 Volunteer Fire Department Workers' Compensation Subsidy Program to volunteer fire  
29 departments to help defray workers' compensation insurance premium increases.

30 (1) Volunteer fire departments shall request supplemental funds by submitting to the  
31 Auditor the following information:

32 (A) The previous fiscal year's workers' compensation premium invoices with paid receipts;

33 (B) The current fiscal year's workers' compensation premium invoices showing the amount  
34 due and due date and any applicable paid receipts; and

35 (C) Any other information the Auditor deems necessary for administering the subsidy on  
36 forms and schedules as the Auditor directs. The Auditor is authorized to set up an electronic filing  
37 system at his or her discretion for filing of the aforementioned information.

38 (2) After determining that there is a premium increase and the amount of the premium  
39 increase for the volunteer fire department requesting the subsidy, the Auditor shall make  
40 disbursements in the manner set forth in subsection (e) of this section subject to the following  
41 requirements:

42 (A) The volunteer fire department must be in good standing with the State Fire Marshal;

43 (B) The volunteer fire department must be registered with the Auditor's Office in a form and

44 manner prescribed by the Auditor prior to being eligible for consideration of any subsidy, which  
45 registration must be completed no fewer than thirty days prior to the due date of the workers'  
46 compensation premium;

47 (C) The volunteer fire department must agree that the subsidy for its workers'  
48 compensation insurance premium increase will be paid directly to its insurance carrier by the  
49 Auditor and that it will timely pay the balance of the premium due; and

50 (D) Should a volunteer fire department fail to pay the balance of its workers' compensation  
51 insurance premium after a disbursement by the Auditor and that insurance policy is subsequently  
52 cancelled, the premium paid by the Auditor shall be returned directly to him or her. If the Auditor  
53 does not receive a reimbursement for a cancelled policy, he or she shall seek reimbursement for  
54 the subsidy portion of the insurance premium from the State Treasurer when the Treasurer makes  
55 the next quarterly payment to the volunteer fire department pursuant to sections thirty-three and  
56 fourteen-d, article three, chapter thirty-three of this code.

57 (e) Beginning with the fiscal year that starts July 1, 2011, and continuing in each fiscal year  
58 thereafter, after the Auditor has verified that a volunteer fire department is eligible for a subsidy  
59 pursuant to this section, he or she shall pay on behalf of a volunteer fire department its subsidy,  
60 which is calculated by:

61 (1) Dividing the total amount of premium subsidy allocated by the Legislature to the  
62 Volunteer Fire Department Workers' Compensation Subsidy Program by the total premium minus  
63 the total base year premium, which calculation produces the "total shortfall multiplier"; and

64 (2) Multiplying the total shortfall multiplier determined in subdivision (1) of this subsection  
65 by the individual premium less the individual base year premium.

66 (3) In no event shall a volunteer fire department receive a workers' compensation premium  
67 subsidy greater than one hundred percent of its premium increase.

68 (f) For fiscal years after July 1, 2011, the Auditor shall consult with the Insurance  
69 Commissioner to determine the total amount of workers' compensation premium due by volunteer

70 fire departments for any subsequent fiscal year. The Auditor may determine payment dates based  
71 upon information reasonably available for such a determination.

72 (g) The Auditor may promulgate emergency rules and may propose for promulgation  
73 legislative rules, in accordance with the provisions of article three, chapter twenty-nine-a of this  
74 code, as are necessary to provide for implementation and enforcement of the provisions of this  
75 section.

76 (h) The volunteer fire departments' workers' compensation premium subsidy program shall  
77 undergo a review to assess its effectiveness after three years of operation. The Auditor shall  
78 submit a report to the Joint Committee on Government and Finance not later than February 1,  
79 2015, and provide details of the program operation including funds distributed and departments  
80 taking advantage of the subsidy.

81 (i) To the best extent possible, the Auditor shall quantify and ensure fair workers'  
82 compensation rates and develop a more equitable method of tracking and billing for the various  
83 classifications within volunteer fire departments and emergency rescue personnel.

**ARTICLE 11. FIRE COMMISSION.**

**§15A-11-12. Ensuring fair workers' compensation rates and equitable tracking and billing.**

1 To the best extent possible, the Fire Commission shall quantify and ensure fair workers'  
2 compensation rates and develop a more equitable method of tracking and billing for the various  
3 classifications within volunteer fire departments and emergency rescue personnel.

NOTE: The purpose of this bill is to quantify and ensure fair workers' compensation rates and to develop a more equitable method of tracking and billing for the various classifications within volunteer fire departments and emergency rescue personnel.

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