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ENROLLED

H. B. 3271

(By Delegates White, Campbell, M. Poling, Kominar, Marshall, Iaquinta, D. Poling, Stowers, Anderson, Border and Cowles)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-4-14a, relating to creating a workers' compensation insurance subsidy program for volunteer fire departments; defining terms; establishing a special program within the Auditor's Office; granting authority to the Auditor to administer the program; designating a funding formula for distribution of moneys allocated; granting rule-making authority to administer this section; and requiring report to the Legislature.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §12-4-14a, to read as follows:

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

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

- (a) For the purposes of this section:
 - (1) "Fiscal year" means the fiscal year of the state.

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

5 (3) "Individual premium" means the workers' compensation
6 premium due and payable by a volunteer fire department in each
7 twelve month period beginning on or after July 1, 2011.

8 (4) "Total base year premium" means the aggregate workers'
9 compensation insurance premium due and payable by all volunteer
10 fire departments as determined by the Insurance Commissioner
11 after June 30, 2010 but before July 1, 2011.

12 (5) "Total premium" means the aggregate workers' compensation
13 insurance premium due and payable by all volunteer fire
14 departments in each twelve month period beginning on or after
15 July 1, 2011.

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

22 (c) There is hereby established a special program which shall
23 be known as the "Volunteer Fire Department Workers' Compensation
24 Subsidy Program." The program shall be administered by the State
25 Auditor from moneys that may be appropriated and designated for
26 the program by the Legislature.

27 (d) The State Auditor shall administer the distribution of

1 moneys appropriated for Volunteer Fire Department Workers'
2 Compensation Subsidy Program to volunteer fire departments to
3 help defray workers' compensation insurance premium increases.

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

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

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

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

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

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

23 (B) The volunteer fire department must be registered with the
24 Auditor's Office in a form and manner prescribed by the Auditor
25 prior to being eligible for consideration of any subsidy, which
26 registration must be completed no fewer than thirty days prior to
27 the due date of the workers' compensation premium;

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

5 (D) Should a volunteer fire department fail to pay the
6 balance of its workers' compensation insurance premium after a
7 disbursement by the auditor and that insurance policy is
8 subsequently cancelled, the premium paid by the Auditor shall be
9 returned directly to him or her. If the Auditor does not receive
10 a reimbursement for a cancelled policy, he or she shall seek
11 reimbursement for the subsidy portion of the insurance premium
12 from the State Treasurer when the treasurer makes the next
13 quarterly payment to the volunteer fire department pursuant to
14 sections thirty-three and fourteen-d, article three, chapter
15 thirty-three of this code.

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

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

27 (2) Multiplying the total shortfall multiplier determined in

1 subdivision (1) of this subsection by the individual premium less
2 the individual base year premium.

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

6 (f) For fiscal years after July 1, 2011, the Auditor shall
7 consult with the Insurance Commissioner to determine the total
8 amount of workers' compensation premium due by volunteer fire
9 departments for any subsequent fiscal year. The Auditor may
10 determine payment dates based upon information reasonably
11 available for such a determination.

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

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