

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2945**

4 (By Delegates Mr. Speaker (Mr. Thompson) and Delegates Caputo,
5 Boggs, Lynch, Young, Skinner, Tomblin, Barrett, Sponaugle, White
6 and Miley)

7 (Originating in the Committee on Finance)

8 [March 21, 2013]

9
10 A BILL to amend and reenact §12-4-14a of the Code of West Virginia,
11 1931, as amended; and to amend said code by adding thereto a
12 new section, designated §33-3-33a, all relating to the
13 distribution of state funds to volunteer fire departments
14 under the Volunteer Fire Department Workers' Compensation
15 Subsidy Program generally; specifying that the subsidy
16 provided to volunteer fire departments to offset certain
17 workers' compensation premium increases apply to increases
18 attributable to the fire fighting service, rapid response
19 emergency medical service, ambulance service and diving
20 service components of the services provided by volunteer fire
21 departments; establishing the Volunteer Fire Department
22 Workers' Compensation Premium Subsidy Fund and directing that
23 certain moneys be deposited into the fund for the program; and
24 requiring reviews, assessments and reports to the Legislature
25 prior to termination of the program.

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

27 That §12-4-14a of the Code of West Virginia, 1931, as amended,

1 be amended and reenacted; and that said code be amended by adding
2 thereto a new section, designated §33-3-33a, all to read as
3 follows:

4 **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

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

6 **§12-4-14a. Workers' Compensation Subsidy for Volunteer Fire**
7 **Departments; creation of program; Auditor to**
8 **administer.**

9 (a) For the purposes of this section:

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

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

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

21 (4) "Total base year premium" means the aggregate workers'
22 compensation insurance premium due and payable by all volunteer
23 fire departments for fire fighting services, rapid response
24 emergency medical services, ambulance services or diving services
25 provided by the volunteer fire departments as determined by the

1 Insurance Commissioner after June 30, 2010, but before July 1,
2 2011.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **CHAPTER 33. INSURANCE.**

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

21 **§33-3-33a. Excess moneys of Fire Protection Fund deposited into**
22 **Volunteer Fire Department Workers' Compensation**
23 **Premium Subsidy Fund; other funding; special report**
24 **from State Fire Marshal by December 15, 2015;**
25 **termination of program June 30, 2016.**

1 (a) There is hereby established a special fund in the State
2 Treasury known as the "Volunteer Fire Department Workers'
3 Compensation Premium Subsidy Fund." The fund shall be administered
4 by the State Auditor and shall consist of moneys deposited in the
5 fund pursuant to this section, any other funds appropriated by the
6 Legislature for volunteer fire departments for the purposes of
7 section fourteen-a, article four, chapter twelve of this code, and
8 the interest or other earnings on the moneys in the fund. The
9 State Auditor shall administer the distribution of moneys of the
10 fund to volunteer fire departments to help defray workers'
11 compensation insurance premium increases pursuant to section
12 fourteen-a, article four, chapter twelve of this code. Balances in
13 the fund at the end of any fiscal year shall not expire, but shall
14 be expended for those purposes in ensuing fiscal years pursuant to
15 appropriation of the Legislature.

16 (b) Beginning July 1, 2013, and in each fiscal year thereafter
17 until June 30, 2016, the excess of the aggregate of amounts
18 collected by the commissioner that are otherwise required under any
19 provision of this code to be deposited into the Fire Protection
20 Fund over the aggregate of those amounts deposited into the Fire
21 Protection Fund during the fiscal year ending June 30, 2013, shall
22 be deposited into the Volunteer Fire Department Workers'
23 Compensation Premium Subsidy Fund and expended solely for the
24 purposes established in section fourteen-a, article four, chapter
25 twelve of this code.

26 (c) On or before August 1, 2013, the commissioner shall

1 transfer \$7.5 million from the Fire Marshal Fees Fund created under
2 section twelve-b, article three, chapter twenty-nine of this code
3 to the Volunteer Fire Department Workers' Compensation Premium
4 Subsidy Fund and expended solely for the purposes established in
5 section fourteen-a, article four, chapter twelve of this code until
6 June 30, 2016.

7 (d) The State Fire Marshal, in consultation with the Insurance
8 Commissioner, the State Auditor, the Secretary of Revenue and the
9 Legislative Auditor, shall conduct a review of the needs of each
10 volunteer or part volunteer fire company or volunteer fire
11 department serving in the various counties of the state. On or
12 before December 31, 2015, the State Fire Marshal shall submit to
13 the Joint Committee on Government and Finance a comprehensive
14 report of the review and the State Fire Marshal's recommendations,
15 substantiated by the findings of the review, of steps that may be
16 taken to meet the needs of and sustain the volunteer and part
17 volunteer fire companies and volunteer fire departments of this
18 state, including, but not limited to, the following:

19 (1) An assessment of all current funding received by the
20 volunteer fire companies and departments, and a further assessment
21 of the funding necessary to provide the community protections
22 required for the areas served by the volunteer fire companies and
23 departments, the extent to which those needs are being met, the
24 extent to which they are not being met, and recommendations of
25 sources of funds to meet additional needs and the amounts needed,
26 if any;

1 (2) An assessment of the cost of workers' compensation
2 coverage for the volunteer fire companies and departments and
3 recommendations for any actions that may be undertaken by the
4 volunteer fire companies and departments and others to reduce those
5 costs;

6 (3) An assessment of the causes of any decline in recruitment
7 and retention of volunteer firefighters and recommendations for
8 improvements in this area, including any recommendations for
9 incentives that have a demonstrated record of significant increases
10 in recruitment and retention as well as recommendations of sources
11 of funds to provide those incentives, if funds are necessary;

12 (4) An assessment of the level of financial accountability
13 that should be required of volunteer fire companies and departments
14 in order to provide the Legislature the information necessary to
15 target future funding for their activities based upon the safety
16 and fire protection needs of the various areas of the state;

17 (5) An assessment of the comparative levels of funding for
18 volunteer fire companies and departments provided by counties,
19 municipalities and other political subdivisions and the means by
20 which that funding is provided, including identification of those
21 which contribute little or no funding to the volunteer fire
22 companies and departments within their jurisdictions, together with
23 recommendations for increasing those levels of contributions;

24 (6) An assessment of the comparative levels of funding for
25 volunteer fire companies and departments provided by their own
26 efforts, and the means by which that funding is provided, including

1 identification of those which provide little or no funding through
2 their own efforts, together with recommendations for increasing
3 these sources of funding;

4 (7) An assessment of the comparative economic and other
5 benefits provided by the various volunteer fire companies and
6 departments to their particular counties, municipalities and other
7 political subdivisions, as well as to citizens of the local
8 communities they serve;

9 (8) An assessment of the sustainability of the current model
10 of providing fire and other protections to the citizens of rural
11 communities through volunteer fire companies and departments and an
12 assessment of alternative models for providing those protections;
13 and

14 (9) Other assessments and recommendations which the State Fire
15 Marshal deems appropriate in the circumstances.

16 (d) Upon the conclusion of the fiscal year ending June 30,
17 2016, the provisions of this section and section fourteen-a,
18 article four, chapter twelve of this code shall expire and be of no
19 further force and effect and the Volunteer Fire Department Workers'
20 Compensation Premium Subsidy Fund shall be closed. Upon closure of
21 the fund, from any balances therein remaining, the State Auditor
22 shall first, to the extent available, transfer to the Fire
23 Protection Fund an amount equal to the aggregate of funds deposited
24 into the Volunteer Fire Department Workers' Compensation Premium
25 Subsidy Fund during the fiscal years ending June 30, 2014, 2015 and
26 2016 pursuant to subsection (b) of this section that would

1 otherwise have been required to be deposited into the Fire
2 Protection Fund, and any balances thereafter remaining in the
3 Volunteer Fire Department Workers' Compensation Premium Subsidy
4 Fund shall expire to the General Revenue Fund of the state.