

**H. B. 2945**

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

[Introduced March 15, 2013; referred to the  
Committee on Finance.]

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

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

2       That §12-4-14a of the Code of West Virginia, 1931, as amended,  
3 be amended and reenacted; and that said code be amended by adding  
4 thereto a new section, designated §33-3-33a, all to read as  
5 follows:

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

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

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

11       (a) For the purposes of this section:

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

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

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

23       (4) "Total base year premium" means the aggregate workers'

1 compensation insurance premium due and payable by all volunteer  
2 fire departments for fire fighting services, rapid response  
3 emergency medical services, ambulance services or diving services  
4 provided by the volunteer fire departments as determined by the  
5 Insurance Commissioner after June 30, 2010, but before July 1,  
6 2011.

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

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

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

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

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

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

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

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

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

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

24 (B) The volunteer fire department must be registered with the

1 Auditor's Office in a form and manner prescribed by the Auditor  
2 prior to being eligible for consideration of any subsidy, which  
3 registration must be completed no fewer than thirty days prior to  
4 the due date of the workers' compensation premium;

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

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

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

24 (1) Dividing the total amount of premium subsidy allocated by

1 the Legislature to the Volunteer Fire Department Workers'  
2 Compensation Subsidy Program by the total premium minus the total  
3 base year premium, which calculation produces the "total shortfall  
4 multiplier"; and

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

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

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

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

22 (h) The volunteer fire departments' workers' compensation  
23 premium subsidy program shall undergo a review to assess its  
24 effectiveness after three years of operation. The Auditor shall

1 submit a report to the Joint Committee on Government and Finance  
 2 not later than February 1, 2015, and provide details of the program  
 3 operation including funds distributed and departments taking  
 4 advantage of the subsidy.

5 **CHAPTER 33. INSURANCE.**

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

7 **§33-3-33a. Excess moneys of Fire Protection Fund deposited into**  
 8 **Volunteer Fire Department Workers' Compensation**  
 9 **Premium Subsidy Fund; other funding; special report**  
 10 **from State Fire Marshal by December 15, 2015;**  
 11 **termination of program June 30, 2016.**

12 (a) There is hereby established a special fund in the State  
 13 Treasury known as the "Volunteer Fire Department Workers'  
 14 Compensation Premium Subsidy Fund." The fund shall be administered  
 15 by the State Auditor and shall consist of moneys deposited in the  
 16 fund pursuant to this section, any other funds appropriated by the  
 17 Legislature for volunteer fire departments for the purposes of  
 18 section fourteen-a, article four, chapter twelve of this code, and  
 19 the interest or other earnings on the moneys in the fund. The  
 20 State Auditor shall administer the distribution of moneys of the  
 21 fund to volunteer fire departments to help defray workers'  
 22 compensation insurance premium increases pursuant to section  
 23 fourteen-a, article four, chapter twelve of this code. Balances in

1 the fund at the end of any fiscal year shall not expire, but shall  
2 be expended for those purposes in ensuing fiscal years pursuant to  
3 appropriation of the Legislature.

4 (b) Beginning July 1, 2013, and in each fiscal year thereafter  
5 until June 30, 2016, the excess of the aggregate of amounts  
6 collected by the commissioner that are otherwise required under any  
7 provision of this code to be deposited into the Fire Protection  
8 Fund over the aggregate of those amounts deposited into the Fire  
9 Protection Fund during the fiscal year ending June 30, 2013, shall  
10 be deposited into the Volunteer Fire Department Workers'  
11 Compensation Premium Subsidy Fund and expended solely for the  
12 purposes established in section fourteen-a, article four, chapter  
13 twelve of this code.

14 (c) On or before August 1, 2013, the commissioner shall  
15 transfer \$7.5 million from the Premium Tax Savings Fund created  
16 under section thirteen, article twelve, chapter twenty-nine of this  
17 code to the Volunteer Fire Department Workers' Compensation Premium  
18 Subsidy Fund and expended solely for the purposes established in  
19 section fourteen-a, article four, chapter twelve of this code until  
20 June 30, 2016.

21 (d) The State Fire Marshal, in consultation with the Insurance  
22 Commissioner, the State Auditor, the Secretary of Revenue and the  
23 Legislative Auditor, shall conduct a review of the needs of each  
24 volunteer or part volunteer fire company or volunteer fire

1 department serving in the various counties of the state. On or  
2 before December 31, 2015, the State Fire Marshal shall submit to  
3 the Joint Committee on Government and Finance a comprehensive  
4 report of the review and the State Fire Marshal's recommendations,  
5 substantiated by the findings of the review, of steps that may be  
6 taken to meet the needs of and sustain the volunteer and part  
7 volunteer fire companies and volunteer fire departments of this  
8 state, including, but not limited to, the following:

9       (1) An assessment of all current funding received by the  
10 volunteer fire companies and departments, and a further assessment  
11 of the funding necessary to provide the community protections  
12 required for the areas served by the volunteer fire companies and  
13 departments, the extent to which those needs are being met, the  
14 extent to which they are not being met, and recommendations of  
15 sources of funds to meet additional needs and the amounts needed,  
16 if any;

17       (2) An assessment of the cost of workers' compensation  
18 coverage for the volunteer fire companies and departments and  
19 recommendations for any actions that may be undertaken by the  
20 volunteer fire companies and departments and others to reduce those  
21 costs;

22       (3) An assessment of the causes of any decline in recruitment  
23 and retention of volunteer firefighters and recommendations for  
24 improvements in this area, including any recommendations for

1 incentives that have a demonstrated record of significant increases  
2 in recruitment and retention as well as recommendations of sources  
3 of funds to provide those incentives, if funds are necessary;

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

9 (5) An assessment of the comparative levels of funding for  
10 volunteer fire companies and departments provided by counties,  
11 municipalities and other political subdivisions and the means by  
12 which that funding is provided, including identification of those  
13 which contribute little or no funding to the volunteer fire  
14 companies and departments within their jurisdictions, together with  
15 recommendations for increasing those levels of contributions;

16 (6) An assessment of the comparative levels of funding for  
17 volunteer fire companies and departments provided by their own  
18 efforts, and the means by which that funding is provided, including  
19 identification of those which provide little or no funding through  
20 their own efforts, together with recommendations for increasing  
21 these sources of funding;

22 (7) An assessment of the comparative economic and other  
23 benefits provided by the various volunteer fire companies and  
24 departments to their particular counties, municipalities and other

1 political subdivisions, as well as to citizens of the local  
2 communities they serve;

3 (8) An assessment of the sustainability of the current model  
4 of providing fire and other protections to the citizens of rural  
5 communities through volunteer fire companies and departments and an  
6 assessment of alternative models for providing those protections;  
7 and

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

10 (d) Upon the conclusion of the fiscal year ending June 30,  
11 2016, the provisions of this section and section fourteen-a,  
12 article four, chapter twelve of this code shall expire and be of no  
13 further force and effect and the Volunteer Fire Department Workers'  
14 Compensation Premium Subsidy Fund shall be closed. Upon closure of  
15 the fund, from any balances therein remaining, the State Auditor  
16 shall first, to the extent available, transfer to the Fire  
17 Protection Fund an amount equal to the aggregate of funds deposited  
18 into the Volunteer Fire Department Workers' Compensation Premium  
19 Subsidy Fund during the fiscal years ending June 30, 2014, 2015 and  
20 2016 pursuant to subsection (b) of this section that would  
21 otherwise have been required to be deposited into the Fire  
22 Protection Fund, and any balances thereafter remaining in the  
23 Volunteer Fire Department Workers' Compensation Premium Subsidy  
24 Fund shall expire to the General Revenue Fund of the state.

NOTE: The purpose of the bill is to improve the Volunteer Fire Department Workers' Compensation Subsidy Program by clarifying that the subsidies provided to volunteer fire departments to offset their workers' compensation premium increases apply not only to the increases attributable to their fire fighting services, but apply as well to increases attributable to the rapid response emergency medical service, ambulance service and diving service components of the services provided by the volunteer fire departments; by extending the program and providing a one-time and continuing sources of revenue for the program; and by directing a comprehensive study of steps that may be taken to meet the needs of and sustain the volunteer and part volunteer fire companies and volunteer fire departments of this state.

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