

H. B. 2647

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(By Delegates Howell, Hill, B. White, Arvon, Fast, A. Evans,
Romine, McGeehan, Storch, Hanshaw and R. Phillips)
[Introduced February 6, 2015; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §11-21-45 and §11-24-11c; and to amend said code by adding thereto a new section, designated §23-2-18, all relating to workers' compensation insurance; allowing an employer to extend workers' compensation coverage to an employee engaged in volunteer fire fighting and allowing employers a tax credit for the cost of providing workers' compensation insurance coverage to employees engaged in volunteer fire fighting.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §11-21-45 and §11-24-11c; and that said code be amended by adding thereto a new section, designated §23-2-18, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX

§11-21-45. Credit for extending workers' compensation coverage to volunteer firefighters.

For any employer not subject to the tax imposed by article twenty-four of this chapter, a

1 credit shall be allowed against the primary tax liability imposed by this article equal to one hundred
2 percent of the increase in cost to the employer from providing workers' compensation coverage to
3 an employee for volunteer fire fighting services, pursuant to section eighteen, article two, chapter
4 twenty-three of this code.

5 **ARTICLE 24. CORPORATION NET INCOME TAX.**

6 **§11-24-11c. Credit for extending workers' compensation coverage to volunteer firefighters.**

7 A credit shall be allowed against the primary tax liability imposed by this article equal to one
8 hundred percent of the increase in cost to an employer from providing workers' compensation
9 coverage to an employee for volunteer fire fighting services, pursuant to section eighteen, article two,
10 chapter twenty-three of this code.

11 **CHAPTER 23. WORKERS' COMPENSATION.**

12 **ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO THIS CHAPTER;**

13 **EXTRATERRITORIAL COVERAGE.**

14 **§23-2-18. Employer coverage of volunteer firefighters.**

15 (a) This section shall be known and may be cited as the "Volunteer Fire Department Workers'
16 Compensation Cost Reduction Act."

17 (b) Notwithstanding any other provision of this code, an employer subject to the requirements
18 of this article may extend workers' compensation insurance coverage to an employee for any
19 volunteer fire fighting services that the employee performs. A volunteer fire department is not
20 required to extend workers' insurance compensation coverage to a volunteer firefighter while the
21 volunteer firefighter is covered by an employer pursuant to this section.

22 (c) Upon extending workers' compensation insurance coverage to an employee for volunteer

1 fire fighting services and every six months thereafter, an employer shall provide a notarized affidavit
2 to the volunteer fire company verifying that the employee is covered for the next six months. The
3 volunteer fire fighting department shall keep the affidavit on file and shall forward a copy of the
4 affidavit to the State Fire Marshal.

5 (d) A volunteer firefighter insured pursuant to this section shall immediately notify the
6 volunteer fire department in writing if any of the following events occur:

7 (1) An employer rescinds coverage provided pursuant to this section.

8 (2) The volunteer firefighter's employment is terminated by the employer providing coverage
9 pursuant to this section.

10 (3) The volunteer firefighter resigns from employment with an employer providing coverage
11 pursuant to this section.

12 (e) Any individual who fails to report a rescission of coverage or a change in employment
13 status, as required by subsection (d), shall be subject to a fine of not more than \$1,000, to be assessed
14 by the Workers' Compensation Commission.

15 (f) In the event that a volunteer fire fighting department receives written notice from a
16 volunteer firefighter of a rescission of coverage or a change in employment status, as required by
17 subsection (d), the volunteer fire fighting department shall immediately provide workers'
18 compensation coverage to the volunteer firefighter in compliance with this article. Any volunteer
19 fire department that fails to comply with the requirements of this subsection shall be subject to a fine
20 of not more than \$1,000, to be assessed by the Workers' Compensation Commission.

21 (g) An employer providing coverage to a volunteer firefighter pursuant to this section is not
22 subject to civil or criminal liability for the actions of an employee while performing volunteer fire

1 fighting services.

2 (h) The Fire Marshal shall keep detailed records of all coverage provided pursuant to this
3 section and shall present an annual financial data report to the Joint Committee on Labor and Worker

4 Safety Issues.

NOTE: The purpose of this bill is to allow an employer to extend workers' compensation insurance coverage to an employee engaged in volunteer fire fighting and allowing employers a tax credit for the cost of providing workers' compensation insurance to employees engaged in volunteer fire fighting.

These sections are new; therefore, they have been completely underscored.