

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2760

BY DELEGATES WALTERS, NELSON, E., PHILLIPS,
MARCUM, GEARHEART, CRISS, HOUSEHOLDER,
ANDERSON, WESTFALL, HARTMAN AND HANSHAW

[Introduced March 1, 2017; Referred
to the Committee on Banking and Insurance then
Finance.]

1 A BILL to amend §33-2-21a of the Code of West Virginia, 1931, as amended, relating to allowing
 2 state agencies to self-insure their own programs in lieu of purchasing Workers
 3 Compensation insurance.

Be it enacted by the Legislature of West Virginia:

1 That §33-2-21a of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-21a. State agency workers' compensation programs.

1 (a) The intent of this section is to provide a means of managing workers' compensation
 2 coverage for persons directly employed by the State of West Virginia. For the purposes of this
 3 section:

4 (1) "Discretionary participant" means the Parkways Authority, offices of the State Auditor,
 5 the State Treasurer, the Secretary of State, the Attorney General, the Department of Agriculture,
 6 the state Senate and House of Delegates or their related entities, the Supreme Court of Appeals,
 7 the State Police and any other spending unit of the state that is required by section twelve, article
 8 two, chapter eleven-b of this code to provide a detailed expenditure schedule to the Secretary of
 9 Revenue in his or her capacity as Director of the Budget: *Provided*, That the term "discretionary
 10 participant" does not include any executive state entity other than the State Police and the
 11 Parkways Authority, any county board of education, any other county entity or its instrumentality
 12 or any municipality or its instrumentality.

13 (2) "Executive state entity" means the Governor's Office and its affiliated entities, Bureau
 14 of Senior Services, or any state department, division, fund, office, position, system, survey or
 15 other entity of state government, however designated, transferred to and incorporated in one of
 16 the executive departments created in section two, article one, chapter five-f of this code, except
 17 the State Police, and that is required by section twelve, article two, chapter eleven-b of this code
 18 to provide a detailed expenditure schedule to the Secretary of Revenue in his or her capacity as

19 Director of the Budget.

20 (b) Notwithstanding any provision of this code to the contrary, executive state entities may,
21 at their discretion, opt-out of the state workers' compensation program beginning on January 1,
22 2018: *Provided*, That executive state entities that elect to opt-out of the workers' compensation
23 program may apply to rejoin the program under the same terms and conditions as are applicable
24 to discretionary participants under subsection (c) of this section. Executive state entities that elect
25 to opt-out of the workers' compensation program shall purchase comparable insurance policies
26 in lieu of the state program.

27 ~~(b)~~ (c) Notwithstanding any provision of this code to the contrary, the commissioner has
28 sole responsibility for managing the workers' compensation risks of all participating executive
29 state entities and for supervising and controlling the workers' compensation programs for such
30 entities: *Provided*, That any discretionary participant may participate in the program upon
31 application to the commissioner under the same terms and conditions as are applicable to
32 executive state entities: *Provided further*, That a discretionary participant is, in accordance with
33 rules governing the program, permitted to withdraw from continued participation in the program.

34 ~~(c)~~ (d) The commissioner may assess such fees or surcharges on participants in the
35 program necessary to manage the workers' compensation risks of those participants. All
36 premiums, fees and surcharges shall be established in accordance with generally acceptable
37 actuarial standards applicable to Workers Compensation coverage as to each participant and as
38 to all participants in the aggregate. The commissioner shall establish criteria for assessments of
39 premiums, fees and surcharges designed to provide the most cost efficient coverage for all
40 participants.

41 ~~(d)~~ (e) The provisions of article three, chapter five-a of this code relating to the Purchasing
42 Division of the Department of Administration do not apply to any contract entered into by the
43 commissioner in furtherance of the requirements of this section: *Provided*, That those contracts
44 shall be awarded on a competitive basis.

45 ~~(e)~~ (f) (1) There is hereby established the "State Entities Workers' Compensation Program
46 Fund." All premiums, surcharges, assessments, deposits or any other moneys or funds deposited
47 or otherwise designated or accruing to the fund as well as all earnings payable to it, shall be
48 deposited in the State Treasury to the credit of the fund. Expenditures from the fund shall be for
49 the purposes set forth in this section, are authorized from collections, and shall not revert to the
50 General Fund. The fund shall be a separate and distinct fund upon the books and records of the
51 Auditor and Treasurer, and disbursements therefrom shall be made upon requisitions signed by
52 the Insurance Commissioner.

53 (2) Any premiums, assessments or deposits or any other moneys or funds received for
54 the purposes of this section shall be invested by the State Treasurer at the request of the
55 commissioner.

56 (3) The Insurance Commissioner may borrow funds as is determined necessary from the
57 Insurance Commission Fund, created in section thirteen-b, article three, chapter thirty-three of
58 this code, for the initial operations of the workers' compensation program for state entities:
59 *Provided*, That any borrowed funds shall be deposited to the credit of the state Entities Workers'
60 Compensation Program Fund: *Provided, however*, That these borrowed funds shall be repaid,
61 without interest, and redeposited to the credit of the Insurance Commission Fund as determined
62 by the Insurance Commissioner.

63 ~~(f)~~ (g) The commissioner may promulgate emergency rules and shall propose for
64 legislative approval legislative rules, in accordance with the provisions of article three, chapter
65 twenty-nine-a of this code, as are necessary to provide for implementation and enforcement of
66 the provisions of this section.

67 ~~(g)~~ (h) The commissioner shall submit reports on the status and progress of the program
68 established in this section to the Joint Committee on Government and Finance monthly and upon
69 request, together with any other specific information on the program requested by the committee.

70 ~~(h)~~ (i) The commissioner shall consult with the state Board of Risk and Insurance

- 71 Management to solicit any applicable experience and expertise in establishing and managing a
72 program to provide insurance coverage to state agencies.

NOTE: The purpose of this bill is to allow state agencies to self-insure their own programs in lieu of purchasing Workers Compensation insurance.

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