

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 494**

BY SENATOR AZINGER

[Introduced March 1, 2021; referred  
to the Committee on Finance]



1 A BILL to amend and reenact §23-2C-16 of the Code of West Virginia, 1931, as amended, relating  
2 to authorizing the Insurance Commissioner to transfer moneys from the Insurance  
3 Commission Fund, also known as the commissioner's operating fund, into the Workers'  
4 Compensation Old Fund to reduce any deficit balance of the Old Fund.

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

**ARTICLE 2C. EMPLOYERS' MUTUAL INSURANCE COMPANY.**

**§23-2C-16. Administration of Old Fund, Uninsured Employer Fund, Self-Insured Employer  
Guaranty Risk Pool, Self-Insured Employer Security Risk Pool, and Private Carrier  
Guaranty Fund.**

1 (a) Notwithstanding any provision of this code to the contrary, the company shall be the  
2 initial third-party administrator of the Old Fund, Uninsured Employer Fund, Self-Insured Employer  
3 Guaranty Risk Pool, Self-Insured Employer Security Risk Pool, and Private Carrier Guaranty Fund  
4 from the termination of the commission and thereafter for a term of at least six months but not  
5 more than three years pursuant to an agreement to be entered into between the Insurance  
6 Commissioner and the company prior to the termination of the commission. The company shall  
7 be paid a reasonable fee for services provided. The company's administrative duties may include,  
8 but not be limited to, receipt of all claims, processing said claims, providing for the payment of  
9 said claims through the State Treasurer's office or other applicable state agency and ensuring,  
10 through the selection and assignment of counsel, that claims decisions are properly defended.  
11 The administration of said funds thereafter shall be subject to the procedures set forth in §5A-3-  
12 1 *et seq.* of this code.

13 (b) The Insurance Commissioner shall review claims determined to be payable from said  
14 funds and may contest the determination pursuant to the provisions of §23-5-1 *et seq.* of this  
15 code.

16 (c) The Insurance Commissioner may conduct or cause to be conducted an annual audit  
17 to be performed on said funds.

18           (d) The Insurance Commissioner may contract or employ counsel to perform legal  
19 services related solely to the collection of moneys due the Old Fund, including the collection of  
20 moneys due the Old Fund and enforcement of repayment agreements entered into for the  
21 collection of moneys due on or before June 30, 2005, in any administrative proceeding and in any  
22 state or federal court.

23           (e) During the fiscal years beginning July 1, 2019, ~~and July 1, 2020, July 1, 2021, July 1,~~  
24 2022, and July 1, 2023, the Insurance Commissioner may, in his or her discretion, transfer special  
25 revenue moneys contained in the Insurance Commission Fund to the Old Fund in any fiscal year  
26 in which the Insurance Commissioner has determined, and an independent auditor has attested  
27 thereto, that a deficit balance existed in the Old Fund for the prior fiscal year.