

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 121

By Delegates Hanshaw (Mr. Speaker) and Skaff

(By Request of the Executive)

[Introduced August 6, 2023; Referred to the
Committee on Finance]

1 A BILL amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §7-5B-1 and §7-5B-2; and to amend and reenact §33-3-33 of said code, all
3 relating to funding certain first responders; creating a special revenue fund administered
4 by the Secretary of Homeland Security for the benefit of counties with excess levies or
5 dedicated fees related to emergency services; creating a special revenue fund
6 administered by the Secretary of Homeland Security for the benefit of emergency services
7 in certain counties exhibiting population increase; granting rulemaking authority; requiring
8 the State Fire Marshal provide certain information to the State Treasurer before distribution
9 of the Fire Protection Fund; and requiring that volunteer fire departments eligible to receive
10 policy surcharge funds implement the State Auditor's West Virginia Checkbook fiscal
11 reporting system.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS

ARTICLE 5B. Funds for fire protection.

§7-5B-1. Funds for use of fire protection in counties with excess levy or dedicated fee.

1 (a) There is hereby created in the State Treasury a special revenue fund designated and
2 known as the County Fire Protection Fund which is an interest-and-earnings accumulating
3 account. The fund shall receive Legislative appropriations, grants, gifts, devises, and donations
4 from any public or private source. All interest and other returns derived from the deposit and
5 investment of moneys in the County Fire Protection Fund shall be credited to the fund. Any
6 balance, including accrued interest and other returns, remaining in the fund at the end of each
7 fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be
8 expended as provided in this section. The fund shall be administered by the Secretary of
9 Homeland Security and distributed by the Secretary to certain county commissions for the
10 exclusive benefit of fire protection in the county. Distributions from the fund shall be distributed

11 only to the county commissions of counties which have in place a countywide excess levy, or a
12 countywide fee dedicated to fire or emergency services. Among those counties, distributions shall
13 be in relative proportion to each county's population's percentage of the aggregate population of
14 all such counties combined.

15 (b) The Secretary of Homeland Security may propose legislative rules, including
16 emergency rules, for promulgation in accordance with §29A-3-1 et seq. of this code to implement
17 this section.

§7-5B-2. Funds for use of fire protection in growth counties.

1 (a) There is hereby created in the State Treasury a special revenue fund designated and
2 known as the Growth County Fire Protection Fund which is an interest-and-earnings accumulating
3 account. The fund shall receive Legislative appropriations, grants, gifts, devises, and donations
4 from any public or private source. All interest and other returns derived from the deposit and
5 investment of moneys in the Growth County Fire Protection Fund shall be credited to the fund.
6 Any balance, including accrued interest and other returns, remaining in the fund at the end of each
7 fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be
8 expended as provided in this section. The fund shall be administered by the Secretary of
9 Homeland Security and distributed by the Secretary to certain county commissions for the
10 exclusive benefit of fire protection in the county. Distributions from the fund shall be distributed
11 only to the county commissions of counties which have demonstrated a net population increase
12 based upon the most current decennial US Census data. Among those counties, distributions
13 shall be in relative proportion to each county's population's percentage of the aggregate
14 population of all such counties combined.

15 (b) The Secretary of Homeland Security may propose legislative rules, including
16 emergency rules, for promulgation in accordance with §29A-3-1 et seq. of this code to implement
17 this section.

CHAPTER33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments; Public Employees Insurance Agency and municipal pension plans; special fund created; allocation of proceeds; effective date.

1 (a)(1) For the purpose of providing additional revenue for volunteer fire departments, part-
2 volunteer fire departments and certain retired teachers and the teachers retirement reserve fund,
3 there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire
4 insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or
5 by any risk retention group, a policy surcharge equal to one percent of the taxable premium for
6 each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions
7 (2) and (3) of this subsection.

8 (2) After June 30, 2005, through December 31, 2005, for the purpose of providing
9 additional revenue for volunteer fire departments, part-volunteer fire departments and to provide
10 additional revenue to the Public Employees Insurance Agency and municipal pension plans, there
11 is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire
12 insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or
13 by any risk retention group, a policy surcharge equal to one percent of the taxable premium for
14 each such policy.

15 (3) After December 31, 2005, for the purpose of providing additional revenue for volunteer
16 fire departments and part-volunteer fire departments, there is hereby authorized and imposed on
17 the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer,
18 authorized or unauthorized, or by any risk retention group, a policy surcharge equal to fifty-five one
19 hundredths of one percent of the taxable premium for each such policy.

20 (4) For purposes of this section, casualty insurance may not include insurance on the life of
21 a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on
22 a debtor to provide indemnity for payments becoming due on a specific loan or other credit
23 transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be
24 subject to premium taxes, agent commissions or any other assessment against premiums.

25 (b) The policy surcharge shall be collected and remitted to the Commissioner by the
26 insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is
27 issued by a risk retention group, by the risk retention group. The amount required to be collected
28 under this section shall be remitted to the Commissioner on a quarterly basis on or before the
29 twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except
30 for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the
31 succeeding year.

32 (c) Any person failing or refusing to collect and remit to the Commissioner any policy
33 surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing
34 is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the
35 Commissioner. The Commissioner may suspend the insurer, broker or risk retention group until all
36 surcharge payments and penalties are remitted in full to the Commissioner.

37 (d)(1) All money from the policy surcharge shall be collected by the Commissioner who
38 shall disburse the money received from the surcharge into a special account in the state Treasury,
39 designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest
40 thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the
41 months of January, April, July and October to each volunteer fire company or department on an
42 equal share basis by the state Treasurer. After June 30, 2005, the money received from the
43 surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

44 (2)(A) After June 30, 2005, through December 31, 2005, all money from the policy
45 surcharge shall be collected by the Commissioner who shall disburse one half of the money

46 received from the surcharge into the Fire Protection Fund for distribution as provided in
47 subdivision (1) of this subsection.

48 (B) The remaining portion of moneys collected shall be transferred into the fund in the state
49 Treasury of the Public Employees Insurance Agency into which are deposited the proportionate
50 shares made by agencies of this state of the Public Employees Insurance Agency costs of those
51 agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the
52 remain portion shall be transferred to the special account in the state Treasury, known as the
53 Municipal Pensions and Protection Fund.

54 (3) After December 31, 2005, all money from the policy surcharge shall be collected by the
55 Commissioner who shall disburse all of the money received from the surcharge into the Fire
56 Protection Fund for distribution as provided in subdivision (1) of this subsection.

57 (4) Before each distribution date to volunteer fire companies or departments, the state Fire
58 Marshal shall report to the state Treasurer: ~~the names and addresses of all volunteer and part-~~
59 ~~volunteer fire companies and departments within the state which meet the eligibility requirements~~
60 ~~established in section eight a, article fifteen, chapter eight of this code.~~

61 (i) The names and addresses of all volunteer and part-volunteer fire companies and
62 departments within the state which meet the eligibility requirements established in §8-15-8a of this
63 code during the preceding quarter;

64 (ii) The number of volunteer firefighters and the number of full-time paid members
65 providing services to each volunteer and part-volunteer fire company and department during the
66 preceding quarter;

67 (iii) A full accounting of each volunteer and part-volunteer fire company and department
68 eligible to receive a distribution under this section's revenues and expenditures for the last two
69 calendar years; and

70 (iv) A list of each volunteer and part-volunteer fire company and department has
71 implemented the State Auditor's West Virginia Checkbook fiscal reporting system on or before
72 January 1, 2026.

73 (e) Notwithstanding any other provision of this subsection, each volunteer and part-
74 volunteer fire company and department shall implement the State Auditor's West Virginia
75 Checkbook fiscal reporting system on or before January 1, 2026, in order to remain eligible to
76 receive any funds pursuant to this section.

77 ~~(e)~~ (f) The allocation, distribution and use of revenues provided in the Fire Protection Fund
78 are subject to the provisions of sections eight-a and eight-b, article fifteen, chapter eight of this
79 code.

NOTE: The purpose of this bill is to fund certain first responders; create a special revenue fund administered by the Secretary of Homeland Security for the benefit of counties with excess levies or dedicated fees related to emergency services; create a special revenue fund administered by the Secretary of Homeland Security for the benefit of emergency services in certain counties exhibiting population increase; grant rulemaking authority; require the State Fire Marshal to provide certain information to the State Treasurer before distribution of the Fire Protection Fund; and require that volunteer fire departments eligible to receive policy surcharge funds implement the State Auditor's West Virginia Checkbook fiscal reporting system.

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