

WEST VIRGINIA LEGISLATURE
2023 FIRST EXTRAORDINARY SESSION

Enrolled

Senate Bill 1021

By Senators Blair (Mr. President) and Woelfel

[By Request of the Executive]

[Passed August 8, 2023; in effect from passage]

1 AN ACT to 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 fire protection or emergency
5 services in counties with excess levies or dedicated fees related to emergency services;
6 creating a special revenue fund administered by the Secretary of Homeland Security for
7 the benefit of fire protection or emergency services in all counties; granting rulemaking
8 authority; requiring the State Fire Marshal provide certain information to the State
9 Treasurer before distribution of the Fire Protection Fund; and requiring that volunteer fire
10 departments eligible to receive policy surcharge funds implement the State Auditor's West
11 Virginia Checkbook fiscal 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.

12 (a) There is hereby created in the State Treasury a special revenue fund designated and
13 known as the County Fire Protection Fund which is an interest-and-earnings accumulating
14 account. The fund shall receive legislative appropriations, grants, gifts, devises, and donations
15 from any public or private source. All interest and other returns derived from the deposit and
16 investment of moneys in the County Fire Protection Fund shall be credited to the fund. Any
17 balance, including accrued interest and other returns, remaining in the fund at the end of each
18 fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be
19 expended as provided in this section. The fund shall be administered by the Secretary of
20 Homeland Security and distributed by the secretary to certain county commissions and distributed
21 by those county commissions to fire departments in those counties for the exclusive benefit of fire

22 protection or emergency services in the county. Distributions from the fund shall be distributed only
23 to the county commissions of counties which have in place a countywide excess levy, or a
24 countywide fee, dedicated to fire or emergency services. Among those counties, distributions shall
25 be in relative proportion to each county's population's percentage of the aggregate population of
26 all such counties combined.

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

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

30 (a) There is hereby created in the State Treasury a special revenue fund designated and
31 known as the All County Fire Protection Fund which is an interest-and-earnings accumulating
32 account. The fund shall receive legislative appropriations, grants, gifts, devises, and donations
33 from any public or private source. All interest and other returns derived from the deposit and
34 investment of moneys in the All County Fire Protection Fund shall be credited to the fund. Any
35 balance, including accrued interest and other returns, remaining in the fund at the end of each
36 fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be
37 expended as provided in this section. The fund shall be administered by the Secretary of
38 Homeland Security and distributed by the secretary to county commissions and distributed by
39 those county commissions to fire departments in those counties for the exclusive benefit of fire
40 protection or emergency services in the county. Among those counties, distributions shall be in
41 relative proportion to each county's population's percentage of the aggregate population of all
42 such counties combined.

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

CHAPTER 33. 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.

46 (a)(1) For the purpose of providing additional revenue for volunteer fire departments, part-
47 volunteer fire departments and certain retired teachers and the Teachers Retirement Reserve
48 Fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any
49 fire insurance policy or casualty insurance policy issued by any insurer, authorized or
50 unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable
51 premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in
52 subdivisions (2) and (3) of this subsection.

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

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

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

70 (b) The policy surcharge shall be collected and remitted to the commissioner by the
71 insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is
72 issued by a risk retention group, by the risk retention group. The amount required to be collected
73 under this section shall be remitted to the commissioner on a quarterly basis on or before the
74 twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except
75 for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the
76 succeeding year.

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

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

89 (2)(A) After June 30, 2005, through December 31, 2005, all money from the policy
90 surcharge shall be collected by the commissioner who shall disburse one half of the money
91 received from the surcharge into the Fire Protection Fund for distribution as provided in
92 subdivision (1) of this subsection.

93 (B) The remaining portion of moneys collected shall be transferred into the fund in the
94 State Treasury of the Public Employees Insurance Agency into which are deposited the
95 proportionate shares made by agencies of this state of the Public Employees Insurance Agency
96 costs of those agencies, until November 1, 2005. After October 31, 2005, through December 31,
97 2005, the remain portion shall be transferred to the special account in the state Treasury, known as
98 the Municipal Pensions and Protection Fund.

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

102 (4) Before each distribution date to volunteer fire companies or departments, the State Fire
103 Marshal shall report to the state Treasurer:

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

107 (B) The number of volunteer firefighters and the number of full-time paid members
108 providing services to each volunteer and part-volunteer fire company and department during the
109 preceding quarter;

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

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

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

120 (f) The allocation, distribution, and use of revenues provided in the Fire Protection Fund
121 are subject to the provisions of §8-15-8a and §8-15-8b of this code.