

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 20**

By Senators Smith (Mr. President), Woodrum,

Hamilton, Morris, Willis, and Phillips

[Reported March 7, 2025, from the Committee on

Government Organization]

1 A BILL to amend and reenact §8-15-8b, §16-4C-24, §33-3-33, and §33-12C-7 of the Code of West  
2 Virginia, 1931, as amended; and to amend the code by adding a new section, designated  
3 §15A-11-11a, relating to fire departments and emergency medical service units; providing  
4 that any increased costs or expenditures to volunteer fire departments that result from the  
5 implementation of a state legislative rule shall be funded respectively by the State Fire  
6 Commission and the Commissioner of the Bureau for Public Health; creating Fire Service  
7 Recruitment and Retention Fund; establishing that the purpose of the fund is to provide  
8 grants for recruitment and retention purposes; requiring the State Fire Commission to  
9 create a grant program; establishing considerations for awarding grants; providing for  
10 rulemaking; requiring State Fire Commission verify eligibility of volunteer fire departments  
11 with Legislative Auditor; raising policy surcharge to one percent; allocating disbursements  
12 to various funds; raising policy surcharge for surplus lines policies to five percent; and  
13 setting internal effective dates.

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

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-8b. Authorized expenditures of revenues from the Municipal Pensions and  
Protection Fund and the Fire Protection Fund; deductions for unauthorized  
expenditures; record retention.**

1 (a) Money received from the state for volunteer and part-volunteer fire companies and  
2 departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, shall be deposited  
3 into a bank account dedicated to state received funds and may not be commingled with moneys  
4 received from any source other than the state. Distributions from the Municipal Pensions and  
5 Protection Fund and the Fire Protection Fund allocated to volunteer and part-volunteer fire

companies and departments may be expended only for the following:

(1) Personal protective equipment, including helmet, bunker coats, pants, boots, gloves, or combination of bunker pants and boots, coats, and gloves;

(2) Equipment for compliance with the national fire protection standard or automotive fire apparatus, NFPA-1901;

(3) Compliance with insurance service office recommendations relating to fire departments;

(4) Rescue equipment, communications equipment, and ambulance equipment: *Provided*, That no moneys received from the Municipal Pensions and Protection Fund or the Fire Protection Fund may be used for equipment for personal vehicles owned or operated by volunteer or part-volunteer fire company or department members;

(5) The direct costs incurred due to the purchase of land, the construction of new facilities, or the expansion of current facilities, when these costs can be demonstrated by the department to increase the effectiveness and efficiency of the fire protection services; as well as maintenance required to maintain the functionality of physical facilities of the department;

(6) Retirement of debts, but only if the debts were incurred exclusively for the purchase of the goods and services allowed under this subsection;

(7) Payment of utility bills, including internet and telephone bills which may include cell phones when the cell phone is used for fire department related work only;

(8) Payment of the cost of immunizations, including any laboratory work incident to the immunizations, for firefighters against hepatitis-b and other blood-borne pathogens only when: (A) purchased through the state immunization program or lowest-cost provider; and (B) no-cost or low-cost administration from local boards of health or other similar programs are unavailable;

(9) Insurance policies, including:

(A) Property/casualty insurance premiums for protection and indemnification against loss or damage or liability;

(B) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters;

(C) Accident and sickness insurance premiums which may be offered to cover individual members of a volunteer or part-volunteer fire company; or

(D) Umbrella policies that contain various types of insurance policies to protect against loss and liability, so long as life insurance premiums in the amounts prescribed above and property/casualty insurance are part of any umbrella policy;

(10) Operating expenses reasonably required in the normal course of providing effective and efficient fire protection service, which include, but are not limited to, gasoline, bank fees, postage, and accounting costs;

(11) Dues paid to national, state, and county associations;

(12) Workers' compensation premiums;

(13) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year; and

(14) Food, bottled water, and food-related items, like disposable plates and utensils, to provide necessary meals and water to a fire company when responding to an emergency and is in no way connected to any fundraising events.

(b) If a volunteer or part-volunteer fire company or department uses any amount of money received from the Municipal Pensions and Protection Fund or the Fire Protection Fund for an item, service, or purpose not authorized by this section, that amount, when determined by an official audit, review, or investigation, shall be deducted from future distributions to the volunteer fire company or part-volunteer fire department.

(c) If a volunteer or part-volunteer fire company or department purchases goods or services authorized by this section, but then returns the goods or cancels the services for a refund, then any money refunded shall be deposited back into the same, dedicated bank account used for the deposit of distributions from the Municipal Pensions and Protection Fund and the Fire Protection Fund.

(d) A volunteer or part-volunteer fire company or department shall have a dedicated bank account for all funds received from the Municipal Pensions and Protection Fund, the Fire Protection Fund, and any other state distribution, including state grant money.

(1) Any distributions received from the Municipal Pensions and Protection Fund or the Fire Protection Fund shall remain in the bank account dedicated to receiving state funds and be used in accordance with this section.

(2) All other moneys, including state grants, must be transferred out of the account used to receive state funds and transferred into another bank account within 60 days of receipt and such transfer must be in the exact amount of the deposit. If any money is received from sources other than the Municipal Pensions and Fire Protection Fund or the Fire Protection Fund and is not transferred to another account within 60 days, the money may only be used in accordance with this section.

(e) Each volunteer or part-volunteer fire company and department shall retain, for five calendar years, all invoices, receipts, and payment records for the goods and services paid with money received from the state for volunteer and part-volunteer fire companies and departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code and money received as a grant from the Fire Service Equipment and Training Fund as provided in ~~§29-3-5f~~ §15A-11-11 of this code.

(f) Volunteer and part-volunteer fire companies and departments may also invest the received moneys, described in subsection (a) of this section, and collect interest thereon: *Provided*, That volunteer and part-volunteer fire companies and departments ~~shall~~ may not commingle the received moneys with funds received from any other source, ~~shall~~ may not use the invested money as collateral or security for any loan, and shall retain all resulting statements of accounts and earnings for a minimum of five years from the date of the statements.

(g) Notwithstanding any other provision of this article or code to the contrary, any increased costs or expenditures to volunteer fire departments that result from the implementation of a legislative rule shall be funded by the State Fire Commission.

## CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.

### ARTICLE 11. FIRE COMMISSION.

#### §15A-11-11a. Fire Service Recruitment and Retention Fund; creation of fire service recruitment and retention grant; reports of ineligibility to State Fire Marshal.

1       (a) There is hereby continued in the Treasury a special revenue fund to be known as the  
2 Fire Service Recruitment and Retention Fund. Expenditures from the fund by the State Fire  
3 Commission are authorized from collections. The fund may only be used for the purpose of  
4 providing grants to volunteer and part-volunteer fire companies and departments and their  
5 members for the purpose of recruiting and retaining volunteer and part-volunteer firefighters. Any  
6 balance remaining in the fund at the end of any fiscal year does not revert to the General Revenue  
7 Fund but remains in the Special Revenue Fund.

8       (b) The State Fire Commission shall establish a grant program for recruitment and the  
9 retention of volunteer and part-time volunteer firefighters, including length of service award  
10 programs (LOSAP). The grant program shall be open to all volunteer and part-volunteer fire  
11 companies and departments. In making grants pursuant to this section, the State Fire Marshal  
12 shall consider:

13       (1) The number of emergency and nonemergency calls responded to by the company or  
14 department;

15       (2) The activities and responses of the company or department;

16       (3) The revenues received by the company or department from federal, state, county,  
17 municipal, local, and other sources; and

18       (4) The company's or department's assets, expenditures, and other liabilities, including  
19 whether the fire company or department has availed itself of available statewide contracts.

20       (c) The State Fire Commission may promulgate emergency rules and shall propose  
21 legislative rules for promulgation in accordance with §29A-3-1 et seq. as may be necessary to

implement and comply with the provisions of this section.

(d) The Legislative Auditor shall notify the State Fire Marshal of any volunteer or part-volunteer fire company or department that is ineligible to receive grant funds due to the company's or department's failure to file required bank statements or financial reports or failure to comply with an audit or review by the Legislative Auditor. A volunteer or part-volunteer fire company or department reported by the Legislative Auditor shall be ineligible to receive funds under this section until the Legislative Auditor notifies the State Fire Marshal that the company or department has come into compliance.

(e) For the purpose of this section:

"Length of Service Award Program" means a program to provide paid length of service awards to eligible volunteers.

"Eligible volunteer" means a bona fide volunteer who is an active part-time or on-call member of a volunteer fire department or a volunteer firefighter.

## CHAPTER 16. PUBLIC HEALTH.

### ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

#### **§16-4C-24. Emergency Medical Services Equipment and Training Fund; establishment of a grant program for equipment and training of emergency medical service providers and personnel.**

(a) There is continued in the State Treasury a special revenue fund to be known as the Emergency Medical Services Equipment and Training Fund. Expenditures from the fund by the Office of Emergency Medical Services and Bureau for Public Health, are authorized from collections. The fund may only be used for the purpose of providing grants to equip emergency medical services providers and train emergency medical services personnel, as defined in §16-4C-3 of this code, and for the program established in §16-4C-6(p). Any balance remaining in the

7 fund at the end of any fiscal year does not revert to the General Revenue Fund but remains in the  
8 special revenue fund.

9 (b) The secretary shall establish a grant program for equipment, training of emergency  
10 medical services providers and personnel, and for the program established in §16-4C-6(p). Such  
11 grant program shall be open to all emergency medical services personnel and providers, but  
12 priority shall be given to rural and volunteer emergency medical services providers.

13 (c) The secretary shall propose legislative rules for promulgation in accordance with §29A-  
14 3-1 *et seq.* of this code to implement the grant program established pursuant to this section and for  
15 the program established in §16-4C-6(p).

16 (d) Notwithstanding any other provision of this article or code to the contrary, any increased  
17 costs or expenditures to emergency medical services units that result from the implementation of a  
18 legislative rule shall be funded by the Commissioner of the Bureau for Public Health.

## 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.**

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~~  
3 ~~Fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any~~  
4 ~~fire insurance policy or casualty insurance policy issued by any insurer, authorized or~~  
5 ~~unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable~~  
6 ~~premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in~~  
7 ~~subdivisions (2) and (3) of this subsection.~~

8 ~~(2) After June 30, 2005, through December 31, 2005, for the purpose of providing~~



~~additional revenue for volunteer fire departments, part-volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.~~

(3) (a) After ~~December 31, 2005~~ December 31, 2025, for the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to ~~fifty-five one hundredths~~ of one percent of the taxable premium for each such policy.

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

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

(e) (d) Any person failing or refusing to collect and remit to the commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing

is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the commissioner. The commissioner may suspend the insurer, broker, or risk retention group until all surcharge payments and penalties are remitted in full to the commissioner.

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

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

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

~~(3) (2) After December 31, 2005 2025, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.~~  
as follows:

(A) Sixty-four percent into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection;

(B) Twenty-two percent into the Fire Service Equipment and Training Fund established by §15A-11-11; and

(C) Fourteen percent into the Fire Service Recruitment and Retention Fund established by §15A-11-11a.

~~(4)~~ (3) Before each distribution date to volunteer fire companies or departments, the State Fire Marshal shall report to the state Treasurer:

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

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

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

(D) A list of each volunteer and part-volunteer fire company and department has implemented the State Auditor's West Virginia Checkbook fiscal reporting system on or before January 1, 2027.

~~(e)~~ (f) Notwithstanding any other provision of this subsection, each volunteer and part-volunteer fire company and department shall implement the State Auditor's West Virginia Checkbook fiscal reporting system on or before January 1, 2026 2027, in order to remain eligible to receive any funds pursuant to this section; and

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

## **ARTICLE 12C. SURPLUS LINE.**

### **§33-12C-7. Surplus lines tax.**

(a) In addition to the full amount of gross premiums charged by the insurer for the insurance, every person licensed pursuant to §33-12C-8 of this code shall collect and pay to the commissioner a sum equal to ~~four and fifty-five one-hundredths~~ five percent of the gross premiums and gross fees charged, less any return premiums, for surplus lines insurance provided by the licensee pursuant to the license. Where the insurance covers properties, risks or exposures located or to be performed both in and out of this state and this state is the insured's home state, the sum payable shall be computed on that portion of the gross premiums allocated to this state, plus an amount equal to the portion of the gross premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state, and less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of policy: *Provided*, That the surcharge imposed by §33-3-3 of this code on surplus lines policies shall no longer be effective with respect to premium attributable to coverage under such policies for periods after June 30, 2011: *Provided, however*, That ~~twelve 20 per cent~~ percent of taxes collected under this subsection with respect to premium attributable to coverage under such policies after June 30, 2011, shall be disbursed and distributed in accordance with §33-3-33(d) of this code and ~~eighty-eight 80 per cent~~ percent in accordance with subdivision two, subsection (f) of this section. The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker, if any.

(b) The individual insurance producer may not:

(1) Pay directly or indirectly the tax or any portion thereof, either as an inducement to the policyholder to purchase the insurance or for any other reason; or

(2) Rebate all or part of the tax or the surplus lines licensee's commission, either as an inducement to the policyholder to purchase the insurance or for any reason.

(c) The surplus lines licensee may charge the prospective policyholder a fee for the cost of

underwriting, issuing, processing, inspecting, service or auditing the policy for placement with the surplus lines insurer if:

(1) The service is required by the surplus lines insurer;

(2) The service is actually provided by the individual insurance producer or the cost of the service is actually incurred by the surplus lines licensee; and

(3) The provision or cost of the service is reasonable, documented, and verifiable.

(d) The surplus lines licensee shall make a clear and conspicuous written disclosure to the policyholder of:

(1) The total amount of premium for the policy;

(2) Any fee charged;

(3) The total amount of any fee charged; and

(4) The total amount of tax on the premium and fee.

(e) The clear and conspicuous written disclosure required by subdivision (4) of this subsection is subject to the record maintenance requirements of §33-12C-8 of this code.

(f)(1) This tax is imposed for the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and additional revenue for volunteer and part-volunteer fire companies and departments. This tax is required to be paid and remitted, on a calendar year basis and in quarterly estimated installments due and payable on or before the twenty-fifth day of the month succeeding the close of the quarter in which they accrued, except for the fourth quarter, in respect of which taxes shall be due and payable and final computation of actual total liability for the prior calendar year shall be made, less credit for the three quarterly estimated payments ~~prior~~ previously made, and filed with the annual return to be made on or before March 1 of the succeeding year. Provisions of this chapter relating to the levy, imposition, and collection of the regular premium tax are applicable to the levy, imposition, and collection of this tax to the extent that the provisions are not in conflict with this section.

(2) Except as provided in subsection (a) of this section, all taxes remitted to the

commissioner pursuant to subdivision one of this subsection shall be paid by him or her into a special account in the State Treasury, designated Municipal Pensions and Protection Fund, or pursuant to §8-22-18b of this code, the Municipal Pensions Security Fund, and after appropriation by the Legislature, shall be distributed in accordance with the provisions of §33-3-14d(c) of this code. The surplus lines licensee shall return to the policyholder the tax on any unearned portion of the premium returned to the policyholder because of cancellation of policy.

(g) In determining the amount of gross premiums taxable in this state for a placement of surplus lines insurance covering properties, risks or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to properties, risks or exposures located or to be performed in this state and which relates to the kinds of insurance being placed as determined by reference to an appropriate allocation table.

(1) If a policy covers more than one classification:

(A) For any portion of the coverage identified by a classification on the allocation schedule, the tax shall be computed by using the allocation schedule for the corresponding portion of the premium;

(B) For any portion of the coverage not identified by a classification on the allocation schedule, the tax shall be computed by using an alternative equitable method of allocation for the property or risk;

(C) For any portion of the coverage where the premium is indivisible, the tax shall be computed by using the method of allocation which pertains to the classification describing the predominant coverage.

(2) If the information provided by the surplus lines licensee is insufficient to substantiate the method of allocation used by the surplus lines licensee, or if the commissioner determines that the licensee's method is incorrect, the commissioner shall determine the equitable and appropriate amount of tax due to this state as follows:

(A) By use of the allocation schedule where the risk is appropriately identified in the schedule;

(B) Where the allocation schedule does not identify a classification appropriate to the coverage, the commissioner may give significant weight to documented evidence of the underwriting bases and other criteria used by the insurer. The commissioner may also consider other available information to the extent sufficient and relevant, including the percentage of the insured's physical assets in this state, the percentage of the insured's sales in this state, the percentage of income or resources derived from this state, and the amount of premium tax paid to another jurisdiction for the policy.

(h) The commissioner is authorized to participate in a clearinghouse established through NIMA or in a similar allocation procedure for the purpose of collecting and disbursing to signatory states any funds collected pursuant to this section that are allocable to properties, risks or exposures located or to be performed outside of this state: *Provided*, That ~~twelve~~ 20 per cent percent of any moneys received from a clearinghouse or through a similar allocation procedure is subject to the provisions of §33-3-33(d) of this code and ~~eighty-eight~~ 80 per cent percent of such moneys is subject to the provisions of subdivision (2), subsection (f) of this section: *Provided*, *however*, That to the extent other states where portions of the properties, risks, or exposures reside have failed to enter into NIMA or a similar allocation procedure with this state, the net premium tax collected shall be retained by this state and shall be disbursed and distributed in the same manner as moneys received through a clearinghouse or similar allocation procedure.

(i) Collection of tax.

If the tax owed by a surplus lines licensee under this section has been collected and is not paid within the time prescribed, the same shall be recoverable in a suit brought by the commissioner against the surplus lines licensee. The commissioner may charge interest for any unpaid tax, fee, financial assessment or penalty, or portion thereof: *Provided*, That interest may not be charged on interest. Interest shall be calculated using the annual rates which are

105 established by the Tax Commissioner pursuant to §11-10-17a of this code and shall accrue daily.