WEST VIRGINIA CODE: §12-4-14A

§12-4-14a. Workers' Compensation Subsidy for Volunteer Fire Departments; creation of program; Auditor to administer.

(a) For the purposes of this section:

(1) "Fiscal year" means the fiscal year of the state.

(2) "Individual base year premium" means the individual premium that became due and payable by a volunteer fire department after June 30, 2010, but before July 1, 2011.

(3) "Individual premium" means the workers' compensation insurance premium due and payable by a volunteer fire department for fire fighting services, rapid response emergency medical services, ambulance services or diving services provided by the volunteer fire department in each twelve month period beginning on or after July 1, 2011.

(4) "Total base year premium" means the aggregate workers' compensation insurance premium due and payable by all volunteer fire departments for fire fighting services, rapid response emergency medical services, ambulance services or diving services provided by the volunteer fire departments as determined by the Insurance Commissioner after June 30, 2010, but before July 1, 2011.

(5) "Total premium" means the aggregate workers' compensation insurance premium due and payable by all volunteer fire departments for fire fighting services, rapid response emergency medical services, ambulance services or diving services provided by the volunteer fire departments in each twelve month period beginning on or after July 1, 2011.

(b) In recognition of the burden of increasing workers' compensation insurance premiums on volunteer fire departments, the Legislature has determined that additional funding assistance should be made available to eligible departments to pay a portion of those premium increases beginning with invoices due and payable on or after July 1, 2011.

(c) There is hereby established a special program which shall be known as the "Volunteer Fire Department Workers' Compensation Subsidy Program." The program shall be administered by the State Auditor from moneys that may be appropriated and designated for the program by the Legislature pursuant to this section and section thirty-three-a, article three, chapter thirty-three of this code.

(d) The State Auditor shall administer the distribution of moneys appropriated for the Volunteer Fire Department Workers' Compensation Subsidy Program to volunteer fire departments to help defray workers' compensation insurance premium increases.

(1) Volunteer fire departments shall request supplemental funds by submitting to the Auditor the following information:

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(A) The previous fiscal year's workers' compensation premium invoices with paid receipts;

(B) The current fiscal year's workers' compensation premium invoices showing the amount due and due date and any applicable paid receipts; and

(C) Any other information the Auditor deems necessary for administering the subsidy on forms and schedules as the Auditor directs. The Auditor is authorized to set up an electronic filing system at his or her discretion for filing of the aforementioned information.

(2) After determining that there is a premium increase and the amount of the premium increase for the volunteer fire department requesting the subsidy, the Auditor shall make disbursements in the manner set forth in subsection (e) of this section subject to the following requirements:

(A) The volunteer fire department must be in good standing with the State Fire Marshal;

(B) The volunteer fire department must be registered with the Auditor's Office in a form and manner prescribed by the Auditor prior to being eligible for consideration of any subsidy, which registration must be completed no fewer than thirty days prior to the due date of the workers' compensation premium;

(C) The volunteer fire department must agree that the subsidy for its workers' compensation insurance premium increase will be paid directly to its insurance carrier by the Auditor and that it will timely pay the balance of the premium due; and

(D) Should a volunteer fire department fail to pay the balance of its workers' compensation insurance premium after a disbursement by the Auditor and that insurance policy is subsequently cancelled, the premium paid by the Auditor shall be returned directly to him or her. If the Auditor does not receive a reimbursement for a cancelled policy, he or she shall seek reimbursement for the subsidy portion of the insurance premium from the State Treasurer when the Treasurer makes the next quarterly payment to the volunteer fire department pursuant to sections thirty-three and fourteen-d, article three, chapter thirty-three of this code.

(e) Beginning with the fiscal year that starts July 1, 2011, and continuing in each fiscal year thereafter, after the Auditor has verified that a volunteer fire department is eligible for a subsidy pursuant to this section, he or she shall pay on behalf of a volunteer fire department its subsidy, which is calculated by:

(1) Dividing the total amount of premium subsidy allocated by the Legislature to the Volunteer Fire Department Workers' Compensation Subsidy Program by the total premium minus the total base year premium, which calculation produces the "total shortfall multiplier"; and

(2) Multiplying the total shortfall multiplier determined in subdivision (1) of this subsection by the individual premium less the individual base year premium.

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(3) In no event shall a volunteer fire department receive a workers' compensation premium subsidy greater than one hundred percent of its premium increase.

(f) For fiscal years after July 1, 2011, the Auditor shall consult with the Insurance Commissioner to determine the total amount of workers' compensation premium due by volunteer fire departments for any subsequent fiscal year. The Auditor may determine payment dates based upon information reasonably available for such a determination.

(g) The Auditor may promulgate emergency rules and may propose for promulgation legislative rules, in accordance with the provisions of article three, chapter twenty-nine-a of this code, as are necessary to provide for implementation and enforcement of the provisions of this section.

(h) The volunteer fire departments' workers' compensation premium subsidy program shall undergo a review to assess its effectiveness after three years of operation. The Auditor shall submit a report to the Joint Committee on Government and Finance not later than February 1, 2015, and provide details of the program operation including funds distributed and departments taking advantage of the subsidy.

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