WEST VIRGINIA CODE: §33-2-21A

§33-2-21a. State agency workers' compensation programs.

(a) The intent of this section is to provide a means of managing workers' compensation coverage for persons directly employed by the State of West Virginia. For the purposes of this section:

(1) "Discretionary participant" means the Parkways Authority, offices of the State Auditor, the State Treasurer, the Secretary of State, the Attorney General, the Department of Agriculture, the State Senate and House of Delegates or their related entities, the Supreme Court of Appeals, the State Police, and any other spending unit of the state that is required by §11B-2-12 of this code to provide a detailed expenditure schedule to the Secretary of Revenue in his or her capacity as Director of the Budget: *Provided*, That the term "discretionary participant" does not include any executive state entity other than the State Police and the Parkways Authority, any county board of education, any other county entity or its instrumentality, or any municipality or its instrumentality.

(2) "Executive state entity" means the Governor's Office and its affiliated entities, Bureau of Senior Services, or any state department, division, fund, office, position, system, survey, or other entity of state government, however designated, transferred to and incorporated in one of the executive departments created in §5F-1-2 of this code, except the State Police, and that is required by §11B-2-12 of this code to provide a detailed expenditure schedule to the Secretary of Revenue in his or her capacity as Director of the Budget.

(b) Notwithstanding any provision of this code to the contrary, the commissioner has sole responsibility for managing the workers' compensation risks of all executive state entities and for supervising and controlling the workers' compensation programs for such entities: *Provided*, That any discretionary participant may participate in the program upon application to the commissioner under the same terms and conditions as are applicable to executive state entities: *Provided, however*, That a discretionary participant is, in accordance with rules governing the program, permitted to withdraw from continued participation in the program.

(c) The commissioner may assess such fees or surcharges on participants in the program necessary to manage the workers' compensation risks of those participants. All premiums, fees, and surcharges shall be established in accordance with generally acceptable actuarial standards applicable to workers' compensation coverage as to each participant and as to all participants in the aggregate. The commissioner shall establish criteria for assessments of premiums, fees, and surcharges designed to provide the most cost-efficient coverage for all participants.

(d) The provisions of §5A-3-1 *et seq*. of this code relating to the Purchasing Division of the Department of Administration do not apply to any contract entered into by the commissioner

WV Legislature

in furtherance of the requirements of this section: *Provided*, That those contracts shall be awarded on a competitive basis.

(e)(1) There is hereby established the State Entities Workers' Compensation Program Fund. All premiums, surcharges, assessments, deposits, or any other moneys or funds deposited or otherwise designated or accruing to the fund as well as all earnings payable to it, shall be deposited in the State Treasury to the credit of the fund. Expenditures from the fund shall be for the purposes set forth in this section, are authorized from collections, and shall not revert to the General Fund. The fund shall be a separate and distinct fund upon the books and records of the Auditor and Treasurer, and disbursements therefrom shall be made upon requisitions signed by the Insurance Commissioner.

(2) Any premiums, assessments or deposits or any other moneys or funds received for the purposes of this section shall be invested by the State Treasurer at the request of the commissioner.

(3) The Insurance Commissioner may borrow funds as is determined necessary from the Insurance Commission Fund, created in §33-3-13b of this code, for the initial operations of the workers' compensation program for state entities: *Provided*, That any borrowed funds shall be deposited to the credit of the State Entities Workers' Compensation Program Fund: *Provided, however*, That these borrowed funds shall be repaid, without interest, and redeposited to the credit of the Insurance Commission Fund as determined by the Insurance Commissioner.

(f) The commissioner may promulgate emergency rules and shall propose for legislative approval legislative rules, in accordance with the provisions of §29A-3-1 *et seq*. of this code, as are necessary to provide for implementation and enforcement of the provisions of this section.

(g) The commissioner shall consult with the State Board of Risk and Insurance Management to solicit any applicable experience and expertise in establishing and managing a program to provide insurance coverage to state agencies.

WV Legislature