ENROLLED

HOUSE BILL No. 201

(By Mr. Speaker, Mr. Thomas.)

PASSED March 10, 1939

In Effect from Passage
AN ACT to amend and reenact section one, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to employers and employees subject to the workmen's compensation law.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

**Article 2. Employers and Employees Subject to Chapter; Premiums.**

Section 1. *Employers and Employees, Including State and its Agencies Subject to Chapter.* The state of West Virginia and all governmental agencies or departments created by it are hereby required to subscribe to, and pay premiums into,
the workmen's compensation fund for the protection of their employees, and shall be subject to all requirements of this chapter, and all rules and regulations prescribed by the commissioner with reference to rates, classifications and premium payments.

All persons, firms, associations and corporations regularly employing other persons for the purpose of carrying on any form of industry or business in this state, including county courts, boards of education, municipalities and other political subdivisions of the state, are employers within the meaning of this chapter and subject to its provisions: Provided, however, That the provisions of section eight, article two of this chapter shall not apply to such county courts, boards of education, municipalities, or other political subdivisions of the state: And further provided, That the failure of such county courts, boards of education, municipalities or other political subdivisions of the state to elect to subscribe to, and pay premiums into, said workmen's compensation fund, shall not impose any liability upon them, or either of them, other than such liability as would exist notwithstanding the provisions of this chapter. All persons in the service of em-
ployers as herein defined, and employed by them for the purpose of carrying on the industry, business or work in which they are engaged, and check-weighmen employed according to law, and all members of rescue teams assisting in mine accidents with the consent of the owner who, in such case, shall be deemed the employer, or at the direction of the chief of the department of mines, are employees within the meaning of this chapter and subject to its provisions:

Provided, That the chapter shall not apply to employers of employees in domestic or agricultural service, persons prohibited by law from being employed, nor to employees of any employer while employed without the state; nor shall a member of a firm of employers, or any officer of an association or of a corporation employer, including managers, or any elective or appointive official of the state, county, county court, board of education, municipality or other political subdivision of the state, whose term of office is definitely fixed by law, be deemed an employee within the meaning of this chapter.

The premium and actual expenses in connection with governmental agencies and departments of the state of West
Virginia, shall be paid out of the state treasury from appro-
priations made for such agencies and departments, in the
same manner as other disbursements are made by such agen-
cies and departments.

County courts, boards of education, municipalities and
other political subdivisions of the state who shall elect to
become subscribers to the workmen's compensation fund shall
provide for the funds to pay their prescribed premiums into
the fund, and such premiums, and premiums of state agen-
cies and departments, shall be paid into the fund in the same
manner as herein provided for other employers subject to this
chapter.

Any employer whose employment in this state is to be for
a definite or limited period, which could not be considered
"regularly employing" within the meaning of this section,
may elect to pay into the workmen's compensation fund the
premiums herein provided for, and at the time of making ap-
plication to the commissioner such employer shall furnish a
statement under oath showing the probable length of time
the employment will continue in this state, the character of
the work, an estimate of the monthly payroll, and any other
information which may be required by the commissioner. At the time of making application such employer shall deposit with the state compensation commissioner to the credit of the workmen's compensation fund the amount required by section five of this article, which amount shall be returned to such employer, if his application be rejected by the commissioner. Upon notice to such employer of the acceptance of his application by the commissioner, he shall be an employer within the meaning of this chapter and subject to all of its provisions.

Any foreign corporation employer electing to comply with the provisions of this chapter and to receive the benefits hereunder, shall, at the time of making application to the commissioner, in addition to other requirements of this chapter, furnish such commissioner with a certificate from the secretary of state showing that it has complied with all the requirements necessary to enable it legally to do business in this state, and no application of such foreign corporation employer shall be accepted by the commissioner until such certificate is filed.

For the purpose of this chapter, a mine shall be adjudged
within this state when the main opening, drift, shaft or slope is located wholly within this state.

Any employee within the meaning of this chapter whose employment necessitates his temporary absence from this state in connection with such employment, and such absence is directly incidental to carrying on an industry in this state, who shall have received injury during such absence in the course of and resulting from his employment, shall not be denied the right to participate in the workmen's compensation fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the.......................................................House of Delegates

Takes effect.................................................................passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker House of Delegates

The within.........................................................this the...16\th\n
day of........................................................., 1933.

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Governor.

Filed in the office of the Secretary of State of West Virginia, MAR 17 1939, MAR 17 1939

Wm. S. O'Brien,
Secretary of State