ENROLLED

SENATE BILL NO. 64

(By Mr. Chapman, Mr. President, and Mr. Howard)

PASSED March 11, 1967

In Effect

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67
ENROLLED

Senate Bill No. 64
(By Mr. Carson, Mr. President, and Mr. Moreland)

[Passed March 11, 1967; 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 amended, relating to the employers and employees subject to the workmen's compensation fund of this state; requiring county boards of education to subscribe to such fund; specifying that certain fire fighters shall be employees within the meaning of the workmen's compensation statute; and authorizing certain civil defense organizations and duly incorporated volunteer fire departments or companies to subscribe to the workmen's compensation fund.
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 amended, be amended and reenacted to read as follows:

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER; PREMIUMS.

§23-2-1. Employers and employees subject to chapter.

The state of West Virginia and all governmental agencies or departments created by it, including county boards of education, 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, classification and premium payments.

All persons, firms, associations and corporations regularly employing other persons for the purpose of carrying on any form of industry, service or business in this state, including county courts, municipalities, other political subdivisions of the state, and civil defense organizations organized under article five, chapter fifteen of this code,
are employers within the meaning of this chapter and subject to its provisions: *Provided,* That the provisions of section eight, article two of this chapter shall not apply to such county courts, municipalities, other political subdivisions of the state, or civil defense organizations organized as aforesaid: *Provided, however,* That the failure of such county courts, municipalities, other political subdivisions of the state, or civil defense organizations organized as aforesaid, to elect to subscribe to, and to pay premiums into, the 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 employers as herein defined, and employed by them for the purpose of carrying on the industry, business, service, or work in which they are engaged, including persons regularly employed in the state whose duties necessitate employment of a temporary or transitory nature by the same employer without the state, and check-weighmen employed according to law, 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 director of the department of mines,
and all forest fire fighters who, under the supervision of
the director of the department of natural resources or his
designated representative, assist in the prevention, confi-
nement and suppression of any forest fire, are employees
within the meaning of this chapter and subject to its pro-
visions: Provided further, That this chapter shall not
apply to employers of employees in domestic service or
persons whose employment is prohibited by law, nor to
employees of an employer while employed without the
state, except in case of temporary employment without
the state as hereinbefore provided; nor shall a member of
a firm of employers, or any official of an association or of a
corporate employer, including managers, or any elective or
appointive official of the state, county, county court, board
of education, municipality, other political subdivision of
the state, or civil defense organization organized as afore-
said, whose term of office is definitely fixed by law, be
deemed an employee within the meaning of this chapter:
And provided further, That employers of not more than
five or more employees for a period of not more than one month, who shall be called herein "casual employers", employers of employees in agricultural service and duly incorporated volunteer fire departments or companies may voluntarily elect to subscribe to, and pay premiums into, the workmen's compensation fund for the protection of the employees of such employers and all of the members, including the chief, commander or other officials thereof, of such duly incorporated volunteer fire departments or companies, and in such case 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; but such casual employers, employers of employees in agricultural service and duly incorporated volunteer fire departments or companies shall not be required to subscribe to the workmen's compensation fund and their failure to subscribe to such fund shall not impose any liability upon them other than such liability as would exist notwithstanding the provisions of this chapter; nor shall the provisions of section eight of this article apply to casual employers, employers
78 of employees in agricultural service or to such duly incorporated volunteer fire departments or companies.

79 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 appropriations made for such agencies and departments, in the same manner as other disbursements are made by such agencies and departments.

86 County courts, municipalities, other political subdivisions of the state, county boards of education, civil defense organizations organized as aforesaid, and duly incorporated volunteer fire departments or companies which 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 agencies and departments, including county boards of education, shall be paid into the fund in the same manner as herein provided for other employers subject to this chapter. In addition to its usual and ordinary meaning, the term "employer" or "employers", as used in this chapter, shall be taken to extend to and
include any duly incorporated volunteer fire department
or company, or civil defense organization organized as
aforesaid, which shall elect to subscribe to, and pay
premiums into, the workmen’s compensation fund, and in
addition to its usual and ordinary meaning, the term
“employee” or “employees”, as used in this chapter, shall
be taken to extend to and include all of the members of
any such department, company or organization. All duly
incorporated volunteer fire departments or companies,
and civil defense organizations organized as aforesaid,
which shall elect to subscribe to, and pay premiums into,
such fund, shall be placed in a separate group or class of
subscribers to be established by the commissioner, and
such departments, companies or organizations shall pay
into the fund such premiums (computed, notwithstanding
the provisions of section five of this article, on such basis
as to the commissioner shall seem right and proper) as
may be necessary to keep such group or class entirely self-
supporting.

Any employer whose employment in this state is to be
for a definite or limited period, which could not be con-
sidered "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 application 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 applica-
tion to the commissioner, in addition to other require-
ments of this chapter, furnish such commissioner with
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 ad-
judged 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 employ-
ment, 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.

William Tolper
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Homer Frank
Clerk of the Senate

C. A. Basham
Clerk of the House of Delegates

Howard D. Carter
President of the Senate

H. Laman White
Speaker House of Delegates

The within approved this the 21

day of March, 1967.

Helena C. Smith
Governor
PRESENTED TO THE GOVERNOR

Date 3/31/17
Time 2:30pm