

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 64

(By Mr. Casson, Mr. President, and  
Mr. Woodard)

PASSED March 11, 1967

In Effect from Passage

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

# 64

**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,

15 are employers within the meaning of this chapter and  
16 subject to its provisions: *Provided*, That the provisions  
17 of section eight, article two of this chapter shall not apply  
18 to such county courts, municipalities, other political sub-  
19 divisions of the state, or civil defense organizations organ-  
20 ized as aforesaid: *Provided, however*, That the failure of  
21 such county courts, municipalities, other political sub-  
22 divisions of the state, or civil defense organizations organ-  
23 ized as aforesaid, to elect to subscribe to, and to pay  
24 premiums into, the workmen's compensation fund, shall  
25 not impose any liability upon them, or either of them,  
26 other than such liability as would exist notwithstanding  
27 the provisions of this chapter. All persons in the service  
28 of employers as herein defined, and employed by them for  
29 the purpose of carrying on the industry, business, service,  
30 or work in which they are engaged, including persons  
31 regularly employed in the state whose duties necessitate  
32 employment of a temporary or transitory nature by the  
33 same employer without the state, and check-weighmen  
34 employed according to law, all members of rescue teams  
35 assisting in mine accidents with the consent of the owner

36 who, in such case, shall be deemed the employer, or at  
37 the direction of the director of the department of mines,  
38 and all forest fire fighters who, under the supervision of  
39 the director of the department of natural resources or his  
40 designated representative, assist in the prevention, con-  
41 finement and suppression of any forest fire, are employees  
42 within the meaning of this chapter and subject to its pro-  
43 visions: *Provided further*, That this chapter shall not  
44 apply to employers of employees in domestic service or  
45 persons whose employment is prohibited by law, nor to  
46 employees of an employer while employed without the  
47 state, except in case of temporary employment without  
48 the state as hereinbefore provided; nor shall a member of  
49 a firm of employers, or any official of an association or of a  
50 corporate employer, including managers, or any elective or  
51 appointive official of the state, county, county court, board  
52 of education, municipality, other political subdivision of  
53 the state, or civil defense organization organized as afore-  
54 said, whose term of office is definitely fixed by law, be  
55 deemed an employee within the meaning of this chapter:  
56 *And provided further*, That employers of not more than

57 three employees for a period of not more than one month,  
58 who shall be called herein "casual employers", employers  
59 of employees in agricultural service and duly incorporated  
60 volunteer fire departments or companies may voluntarily  
61 elect to subscribe to, and pay premiums into, the work-  
62 men's compensation fund for the protection of the em-  
63 ployees of such employers and all of the members, includ-  
64 ing the chief, commander or other officials thereof, of such  
65 duly incorporated volunteer fire departments or com-  
66 panies, and in such case shall be subject to all require-  
67 ments of this chapter and all rules and regulations pre-  
68 scribed by the commissioner with reference to rates,  
69 classifications and premium payments; but such casual  
70 employers, employers of employees in agricultural service  
71 and duly incorporated volunteer fire departments or com-  
72 panies shall not be required to subscribe to the workmen's  
73 compensation fund and their failure to subscribe to such  
74 fund shall not impose any liability upon them other than  
75 such liability as would exist notwithstanding the provi-  
76 sions of this chapter; nor shall the provisions of section  
77 eight of this article apply to casual employers, employers

78 of employees in agricultural service or to such duly in-  
79 corporated volunteer fire departments or companies.

80 The premium and actual expenses in connection with  
81 governmental agencies and departments of the state of  
82 West Virginia shall be paid out of the state treasury from  
83 appropriations made for such agencies and departments,  
84 in the same manner as other disbursements are made by  
85 such agencies and departments.

86 County courts, municipalities, other political subdivi-  
87 sions of the state, county boards of education, civil defense  
88 organizations organized as aforesaid, and duly incorpo-  
89 rated volunteer fire departments or companies which shall  
90 elect to become subscribers to the workmen's compensa-  
91 tion fund shall provide for the funds to pay their pre-  
92 scribed premiums into the fund, and such premiums, and  
93 premiums of state agencies and departments, including  
94 county boards of education, shall be paid into the fund  
95 in the same manner as herein provided for other employ-  
96 ers subject to this chapter. In addition to its usual and  
97 ordinary meaning, the term "employer" or "employers",  
98 as used in this chapter, shall be taken to extend to and

99 include any duly incorporated volunteer fire department  
100 or company, or civil defense organization organized as  
101 aforesaid, which shall elect to subscribe to, and pay  
102 premiums into, the workmen's compensation fund, and in  
103 addition to its usual and ordinary meaning, the term  
104 "employee" or "employees", as used in this chapter, shall  
105 be taken to extend to and include all of the members of  
106 any such department, company or organization. All duly  
107 incorporated volunteer fire departments or companies,  
108 and civil defense organizations organized as aforesaid,  
109 which shall elect to subscribe to, and pay premiums into,  
110 such fund, shall be placed in a separate group or class of  
111 subscribers to be established by the commissioner, and  
112 such departments, companies or organizations shall pay  
113 into the fund such premiums (computed, notwithstanding  
114 the provisions of section five of this article, on such basis  
115 as to the commissioner shall seem right and proper) as  
116 may be necessary to keep such group or class entirely self-  
117 supporting.

118 Any employer whose employment in this state is to be  
119 for a definite or limited period, which could not be con-



120 sidered "regularly employing" within the meaning of this  
121 section, may elect to pay into the workmen's compensa-  
122 tion fund the premiums herein provided for, and at the  
123 time of making application to the commissioner such  
124 employer shall furnish a statement under oath showing  
125 the probable length of time the employment will continue  
126 in this state, the character of the work, an estimate of the  
127 monthly payroll, and any other information which may  
128 be required by the commissioner. At the time of making  
129 application such employer shall deposit with the state  
130 compensation commissioner to the credit of the work-  
131 men's compensation fund the amount required by section  
132 five of this article, which amount shall be returned to such  
133 employer, if his application be rejected by the commis-  
134 sioner. Upon notice to such employer of the acceptance  
135 of his application by the commissioner, he shall be an  
136 employer within the meaning of this chapter and subject  
137 to all of its provisions.

138 Any foreign corporation employer electing to comply  
139 with the provisions of this chapter and to receive the  
140 benefits hereunder, shall, at the time of making applica-

141 tion to the commissioner, in addition to other require-  
142 ments of this chapter, furnish such commissioner with  
143 certificate from the secretary of state showing that it has  
144 complied with all the requirements necessary to enable  
145 it legally to do business in this state, and no application of  
146 such foreign corporation employer shall be accepted by  
147 the commissioner until such certificate is filed.

148 For the purpose of this chapter, a mine shall be ad-  
149 judged within this state when the main opening, drift,  
150 shaft or slope is located wholly within this state.

151 Any employee within the meaning of this chapter whose  
152 employment necessitates his temporary absence from this  
153 state in connection with such employment, and such  
154 absence is directly incidental to carrying on an industry  
155 in this state, who shall have received injury during such  
156 absence in the course of and resulting from his employ-  
157 ment, shall not be denied the right to participate in the  
158 workmen's compensation fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompa  
Chairman Senate Committee

Clayton C Davidson  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard Myers  
Clerk of the Senate

C. A. Blaskenship  
Clerk of the House of Delegates

Howard E. Carson  
President of the Senate

H. Laban White  
Speaker House of Delegates

The within approved this the 21

day of March, 1967.

Stewart C. Smith  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/21/67

Time 2:30 PM