ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 412

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

Passed September 12, 2005

In Effect from Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §23-2C-24; and to amend and reenact §23-2D-4 of said code, all relating generally to Workers’ Compensation; authorizing the Governor to condition the transfer of certain funds to the New Fund administered by the successor to the Workers’ Compensation Commission upon repayment of the funds under surplus note or other loan arrangement; allowing additional flexibility in terms and method for issuance of Workers’ Compensation debt reduction revenue bonds; and allowing use of derivative products to reduce debt service costs and manage interest rate exposure.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §23-2C-24; and that
§23-2D-4 of said code be amended and reenacted, all to read as follows:

ARTICLE 2C. EMPLOYERS’ MUTUAL INSURANCE COMPANY.

§23-2C-24. Surplus note or other loan arrangement for new fund.

1 (a) Notwithstanding any other provision of this article to the contrary, the transfer of all or a portion of the remainder of funds to be disbursed into the new fund as provided subsection (b), section six of this article, in such amount as may be determined by the Governor, may be conditioned upon the repayment thereof and subject to the terms of a surplus note or other loan arrangement. The Governor shall specify the amount that is to be transferred to the new fund conditioned upon the repayment thereof and subject to loan arrangement in the proclamation issued pursuant to section eleven of this article. The terms of any such surplus note or other loan arrangement must be approved by the Insurance Commissioner before execution of the said proclamation.

14 (b) Payments received by the Treasurer from the company in repayment of any outstanding surplus note or other loan arrangement made pursuant to this subsection shall be deposited in the treasury of the state to the credit of the old fund.

18 (c) The Insurance Commissioner may enter into such agreements, including loan arrangements, with the company that are necessary to accomplish the transfers addressed in this article.

ARTICLE 2D. WORKERS’ COMPENSATION DEBT REDUCTION BONDS.

§23-2D-4. Workers’ Compensation debt reduction revenue bonds; amount; when may issue.

1 (a) Revenue bonds of the State of West Virginia are hereby authorized to be issued and sold by the West Virginia Economic Development Authority created and provided in article fifteen,
chapter thirty-one of this code, solely for the paying down and
elimination of the current unfunded liability of the Workers’
Compensation Fund, as provided by the Constitution and the
provisions of this article. The principal of, and the interest and
redemption premium, if any, on the bonds shall be payable
solely from the special fund provided in section six of this
article for repayment.

(b) The West Virginia Economic Development Authority
either in the resolution authorizing the issuance of the bonds or
by the execution and delivery by the West Virginia Economic
Development Authority of a trust indenture or agreement, shall
stipulate the form of the bonds, whether the bonds are to be
issued in one or more series, the date or dates of issue, the time
or times of maturity, the rate or rates of interest payable on the
bonds, which may be at fixed rates or variable rates and which
interest may be current interest or may accrue, the denomina-
tion or denominations in which the bonds are issued, the
conversion or registration privileges applicable to some or all
of the bonds, the sources and medium of payment and place or
places of payment, the terms of redemption, any privileges of
exchangeability or interchangeability applicable to the bonds,
and the entitlement of holders of the bonds and the providers of
any agreements provided in subsection (e) of this section to
priorities of payment or security in the amounts deposited in the
West Virginia Workers’ Compensation Debt Reduction
Revenue Bond Debt Service Fund: Provided, That in no event
may the amount of bonds issued pursuant to this article exceed
one billion five hundred million dollars: Provided, however,
That the terms of the bonds shall not exceed thirty years from
their respective issuance dates.

(c) Revenue bonds issued under this article shall state on
their face that the bonds do not constitute a debt of the State of
West Virginia; that payment of the bonds, interest and charges
thereon cannot become an obligation of the State of West
Virginia; and that the bondholders’ remedies are limited in all
respects to the “special revenue fund” established in this article for the liquidation of the bonds.

(d) Net proceeds from sale of these bonds shall be deposited in the Old Fund.

(e) In addition and not in limitation to the other provisions of this section, in connection with any bonds issued or expected to be issued pursuant to this article, the West Virginia Economic Development Authority may enter into: (i) Commitments to purchase or sell bonds and bond purchase or sale agreements; (ii) agreements providing for credit enhancement or liquidity, including revolving credit agreements, agreements establishing lines of credit or letters of credit, insurance contracts, surety bonds and reimbursement agreements; (iii) agreements to manage interest rate exposure and tax risk and the return on investments, including interest rate exchange agreements, interest rate cap, collar, corridor, ceiling and floor agreements, option, rate spread or similar exposure agreements, float agreements and forward agreements; (iv) stock exchange listing agreements; and (v) any other commitments, contracts or agreements approved by the West Virginia Economic Development Authority: Provided, That the provider or providers of any of the agreements set forth above may be granted the same security and lien privileges as the bondholders and upon execution of such agreements will constitute a contract between the West Virginia Economic Development Authority and the provider or providers.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy White  
Chairman Senate Committee

[Signature]

Chairman House Committee

Originating in the House.

In effect from passage.

Darrell Miller  
Clerk of the Senate

[Signature]

Clerk of the House of Delegates

Earl Ray Tomblin  
President of the Senate

[Signature]

Speaker of the House of Delegates

The within approved this the 30th day of September, 2005.

[Signature]

Governor
PRESENTED TO THE GOVERNOR

Date: 9/16/05

Time: 4:35