WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3163

(By Delegate Perry)
[By Request of the Insurance Commissioner]

Passed March 12, 2011

In Effect From Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-2-21a, relating to establishing a program to provide workers’ compensation coverage of state government entities and their employees; defining participants and exceptions thereto; designating the insurance commissioner to manage workers’ compensation risks of state entities; creating a purchasing exemption for the program; authorizing commissioner to assess fees, surcharges and premiums; creating fund in state treasury; authorizing investment of funds; permitting the insurance commissioner to borrow funds from the insurance commissioner fund for the initial operation of the program; authorizing insurance commissioner to propose legislative rules and to adopt emergency rules; requiring reports to the Joint Committee on
Government and Finance on the status of the program; and requiring consultation by the insurance commissioner with the State Board of Risk and Insurance Management.

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 §33-2-21a, to read as follows:


(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 section twelve, article two, chapter eleven-b 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 section two, article one,
chapter five-f of this code, except the State Police, and that is
required by section twelve, article two, chapter eleven-b 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 further, 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 article three, chapter five-a of this
code relating to the Purchasing Division of the Department of
Administration do not apply to any contract entered into by
the commissioner in furtherance of the requirements of this
section: Provided, That those contracts shall be awarded on a competitive basis.

(c) (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 section thirteen-b, article three, chapter thirty-three 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 article three, chapter
twenty-nine-a of this code, as are necessary to provide for
implementation and enforcement of the provisions of this
section.

(g) The commissioner shall submit reports on the status
and progress of the program established in this section to the
joint committee on government and finance monthly and
upon request, together with any other specific information on
the program requested by the committee.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

Acting President of the Senate

The within is approved this the 5th day of April, 2011.

Governor
PRESENTED TO THE GOVERNOR

MAR 3 1 2011

Time 11:30 am