WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013

ENROLLED

House Bill No. 103

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)
[By Request of the Executive]

Passed April 17, 2013

In effect from passage.
ENROLLED

H. B. 103

(BY MR. SPEAKER, (MR. THOMPSON)
AND DELEGATE ARMSTEAD)

[BY REQUEST OF THE EXECUTIVE]

[Passed April 17, 2013; in effect from passage.]

AN ACT to amend and reenact §12-4-14a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-3-33a, all relating to the distribution of state funds to volunteer fire departments under the Volunteer Fire Department Workers’ Compensation Subsidy Program; specifying that the subsidy provided to volunteer fire departments to offset certain workers’ compensation premium increases applies to increases attributable to the fire fighting service, rapid response emergency medical service, ambulance service and diving service components of the services provided by volunteer fire departments; establishing the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund and directing that certain moneys be deposited into the fund for the program; requiring the State Fire Marshal, in consultation with the Insurance Commissioner, State Auditor, Secretary of Revenue, and Legislative Auditor, to review, assess and prepare
a comprehensive report to the joint committee on government and finance on or before December 31, 2015, of steps that may be taken to meet the needs of volunteer fire departments and companies; expiring §12-4-14a and §33-3-33a of this code on June 30, 2016; and providing for the closure of the fund.

Be it enacted by the Legislature of West Virginia:

That §12-4-14a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §33-3-33a, all to read as follows:

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

§12-4-14a. Workers’ Compensation Subsidy for Volunteer Fire Departments; creation of program; Auditor to administer.

(a) For the purposes of this section:

(1) “Fiscal year” means the fiscal year of the state.

(2) “Individual base year premium” means the individual premium that became due and payable by a volunteer fire department after June 30, 2010, but before July 1, 2011.

(3) “Individual premium” means the workers’ compensation insurance premium due and payable by a volunteer fire department for fire fighting services, rapid response emergency medical services, ambulance services or diving services provided by the volunteer fire department in each twelve month period beginning on or after July 1, 2011.

(4) “Total base year premium” means the aggregate workers’ compensation insurance premium due and payable by all volunteer fire departments for fire fighting services, rapid response emergency medical services, ambulance services or
diving services provided by the volunteer fire departments as
determined by the Insurance Commissioner after June 30, 2010,
but before July 1, 2011.

(5) "Total premium" means the aggregate workers'
compensation insurance premium due and payable by all
volunteer fire departments for fire fighting services, rapid
response emergency medical services, ambulance services or
diving services provided by the volunteer fire departments in
each twelve month period beginning on or after July 1, 2011.

(b) In recognition of the burden of increasing workers'
compensation insurance premiums on volunteer fire
departments, the Legislature has determined that additional
funding assistance should be made available to eligible
departments to pay a portion of those premium increases
beginning with invoices due and payable on or after July 1,
2011.

(c) There is hereby established a special program which shall
be known as the "Volunteer Fire Department Workers’
Compensation Subsidy Program". The program shall be
administered by the State Auditor from moneys that may be
appropriated and designated for the program by the Legislature
pursuant to this section and section thirty-three-a, article three,
chapter thirty-three of this code.

(d) The State Auditor shall administer the distribution of
moneys appropriated for the Volunteer Fire Department
Workers’ Compensation Subsidy Program to volunteer fire
departments to help defray workers’ compensation insurance
premium increases.

(1) Volunteer fire departments shall request supplemental
funds by submitting to the Auditor the following information:

(A) The previous fiscal year’s workers’ compensation
premium invoices with paid receipts;
(B) The current fiscal year's workers' compensation premium invoices showing the amount due and due date and any applicable paid receipts; and

(C) Any other information the Auditor deems necessary for administering the subsidy on forms and schedules as the Auditor directs. The Auditor is authorized to set up an electronic filing system at his or her discretion for filing of the aforementioned information.

(2) After determining that there is a premium increase and the amount of the premium increase for the volunteer fire department requesting the subsidy, the Auditor shall make disbursements in the manner set forth in subsection (e) of this section subject to the following requirements:

(A) The volunteer fire department must be in good standing with the State Fire Marshal;

(B) The volunteer fire department must be registered with the Auditor's Office in a form and manner prescribed by the Auditor prior to being eligible for consideration of any subsidy, which registration must be completed no fewer than thirty days prior to the due date of the workers' compensation premium;

(C) The volunteer fire department must agree that the subsidy for its workers' compensation insurance premium increase will be paid directly to its insurance carrier by the Auditor and that it will timely pay the balance of the premium due; and

(D) Should a volunteer fire department fail to pay the balance of its workers' compensation insurance premium after a disbursement by the Auditor and that insurance policy is subsequently cancelled, the premium paid by the Auditor shall be returned directly to him or her. If the Auditor does not receive a reimbursement for a cancelled policy, he or she shall seek reimbursement for the subsidy portion of the insurance premium
from the State Treasurer when the Treasurer makes the next
quarterly payment to the volunteer fire department pursuant to
sections thirty-three and fourteen-d, article three, chapter thirty-
three of this code.

(e) Beginning with the fiscal year that starts July 1, 2011,
and continuing in each fiscal year thereafter, after the Auditor
has verified that a volunteer fire department is eligible for a
subsidy pursuant to this section, he or she shall pay on behalf of
a volunteer fire department its subsidy, which is calculated by:

(1) Dividing the total amount of premium subsidy allocated
by the Legislature to the Volunteer Fire Department Workers’
Compensation Subsidy Program by the total premium minus the
total base year premium, which calculation produces the “total
shortfall multiplier”; and

(2) Multiplying the total shortfall multiplier determined in
subdivision (1) of this subsection by the individual premium less
the individual base year premium.

(3) In no event shall a volunteer fire department receive a
workers’ compensation premium subsidy greater than one
hundred percent of its premium increase.

(f) For fiscal years after July 1, 2011, the Auditor shall
consult with the Insurance Commissioner to determine the total
amount of workers’ compensation premium due by volunteer
fire departments for any subsequent fiscal year. The Auditor may
determine payment dates based upon information reasonably
available for such a determination.

(g) The Auditor may promulgate emergency rules and may
propose for promulgation 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.
(h) The volunteer fire departments' workers' compensation premium subsidy program shall undergo a review to assess its effectiveness after three years of operation. The Auditor shall submit a report to the Joint Committee on Government and Finance not later than February 1, 2015, and provide details of the program operation including funds distributed and departments taking advantage of the subsidy.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-33a. Excess moneys of Fire Protection Fund deposited into Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; other funding; special report from State Fire Marshal by December 15, 2015; termination of program June 30, 2016.

(a) There is hereby established a special fund in the State Treasury known as the "Volunteer Fire Department Workers' Compensation Premium Subsidy Fund." The fund shall be administered by the State Auditor and shall consist of moneys deposited in the fund pursuant to this section, any other funds appropriated by the Legislature for volunteer fire departments for the purposes of section fourteen-a, article four, chapter twelve of this code, and the interest or other earnings on the moneys in the fund. The State Auditor shall administer the distribution of moneys of the fund to volunteer fire departments to help defray workers' compensation insurance premium increases pursuant to section fourteen-a, article four, chapter twelve of this code. Balances in the fund at the end of any fiscal year shall not expire, but shall be expended for those purposes in ensuing fiscal years pursuant to appropriation of the Legislature.

(b) Beginning July 1, 2013, and in each fiscal year thereafter until June 30, 2016, the excess of the aggregate of amounts collected by the commissioner that are otherwise required under any provision of this code to be deposited into the Fire
Protection Fund over the aggregate of those amounts deposited
into the Fire Protection Fund during the fiscal year ending June
30, 2013, shall be deposited into the Volunteer Fire Department
Workers' Compensation Premium Subsidy Fund and expended
solely for the purposes established in section fourteen-a, article
four, chapter twelve of this code.

(c) On or before August 1, 2013, the commissioner shall
transfer $4 million from the Fire Marshal Fees Fund created
under section twelve-b, article three, chapter twenty-nine of this
code to the Volunteer Fire Department Workers' Compensation
Premium Subsidy Fund to be expended solely for the purposes
established in section fourteen-a, article four, chapter twelve of
this code until June 30, 2016.

(d) The State Fire Marshal, in consultation with the
Insurance Commissioner, the State Auditor, the Secretary of
Revenue and the Legislative Auditor, shall conduct a review of
the needs of each volunteer or part volunteer fire company or
volunteer fire department serving in the various counties of the
state. On or before December 31, 2015, the State Fire Marshal
shall submit to the Joint Committee on Government and Finance
a comprehensive report of the review and the State Fire
Marshal's recommendations, substantiated by the findings of the
review, of steps that may be taken to meet the needs of and
sustain the volunteer and part volunteer fire companies and
volunteer fire departments of this state, including, but not limited
to, the following:

(1) An assessment of all current funding received by the
volunteer fire companies and departments, and a further
assessment of the funding necessary to provide the community
protections required for the areas served by the volunteer fire
companies and departments, the extent to which those needs are
being met, the extent to which they are not being met, and
recommendations of sources of funds to meet additional needs
and the amounts needed, if any;
(2) An assessment of the cost of workers' compensation coverage for the volunteer fire companies and departments and recommendations for any actions that may be undertaken by the volunteer fire companies and departments and others to reduce those costs;

(3) An assessment of the causes of any decline in recruitment and retention of volunteer firefighters and recommendations for improvements in this area, including any recommendations for incentives that have a demonstrated record of significant increases in recruitment and retention as well as recommendations of sources of funds to provide those incentives, if funds are necessary;

(4) An assessment of the level of financial accountability that should be required of volunteer fire companies and departments in order to provide the Legislature the information necessary to target future funding for their activities based upon the safety and fire protection needs of the various areas of the state;

(5) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by counties, municipalities and other political subdivisions and the means by which that funding is provided, including identification of those which contribute little or no funding to the volunteer fire companies and departments within their jurisdictions, together with recommendations for increasing those levels of contributions;

(6) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by their own efforts, and the means by which that funding is provided, including identification of those which provide little or no funding through their own efforts, together with recommendations for increasing these sources of funding;
(7) An assessment of the comparative economic and other benefits provided by the various volunteer fire companies and departments to their particular counties, municipalities and other political subdivisions, as well as to citizens of the local communities they serve;

(8) An assessment of the sustainability of the current model of providing fire and other protections to the citizens of rural communities through volunteer fire companies and departments and an assessment of alternative models for providing those protections; and

(9) Other assessments and recommendations which the State Fire Marshal deems appropriate in the circumstances.

(d) Upon the conclusion of the fiscal year ending June 30, 2016, the provisions of this section and section fourteen-a. article four, chapter twelve of this code shall expire and be of no further force and effect and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund shall be closed. Upon closure of the fund, from any balances therein remaining, the State Auditor shall first, to the extent available, transfer to the Fire Protection Fund an amount equal to the aggregate of funds deposited into the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund during the fiscal years ending June 30, 2014, 2015 and 2016 pursuant to subsection (b) of this section that would otherwise have been required to be deposited into the Fire Protection Fund, and any balances thereafter remaining in the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund shall expire to the General Revenue Fund of the state.
That Joint Committee on Enrolled Bills hereby certifies that the
foregoing bill is correctly enrolled.

Chairman, House Committee

Member

Chairman, Senate Committee

Originating in the House.

In effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 2nd
day of May, 2013.

Governor
PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 3 pm