

**E N R O L L E D**

**H. B. 103**

(BY MR. SPEAKER, (MR. THOMPSON)

AND DELEGATE ARMSTEAD)

**[BY REQUEST OF THE EXECUTIVE]**

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

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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.**

1           (a) For the purposes of this section:

2           (1) "Fiscal year" means the fiscal year of the state.

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

6           (3) "Individual premium" means the workers' compensation  
7 insurance premium due and payable by a volunteer fire  
8 department for fire fighting services, rapid response emergency  
9 medical services, ambulance services or diving services provided  
10 by the volunteer fire department in each twelve month period  
11 beginning on or after July 1, 2011.

12           (4) "Total base year premium" means the aggregate workers'  
13 compensation insurance premium due and payable by all  
14 volunteer fire departments for fire fighting services, rapid  
15 response emergency medical services, ambulance services or

16 diving services provided by the volunteer fire departments as  
17 determined by the Insurance Commissioner after June 30, 2010,  
18 but before July 1, 2011.

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

25 (b) In recognition of the burden of increasing workers'  
26 compensation insurance premiums on volunteer fire  
27 departments, the Legislature has determined that additional  
28 funding assistance should be made available to eligible  
29 departments to pay a portion of those premium increases  
30 beginning with invoices due and payable on or after July 1,  
31 2011.

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

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

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

46 (A) The previous fiscal year's workers' compensation  
47 premium invoices with paid receipts;

48 (B) The current fiscal year's workers' compensation  
49 premium invoices showing the amount due and due date and any  
50 applicable paid receipts; and

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

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

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

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

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

73 (D) Should a volunteer fire department fail to pay the  
74 balance of its workers' compensation insurance premium after  
75 a disbursement by the Auditor and that insurance policy is  
76 subsequently cancelled, the premium paid by the Auditor shall  
77 be returned directly to him or her. If the Auditor does not receive  
78 a reimbursement for a cancelled policy, he or she shall seek  
79 reimbursement for the subsidy portion of the insurance premium

80 from the State Treasurer when the Treasurer makes the next  
81 quarterly payment to the volunteer fire department pursuant to  
82 sections thirty-three and fourteen-d, article three, chapter thirty-  
83 three of this code.

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

89 (1) Dividing the total amount of premium subsidy allocated  
90 by the Legislature to the Volunteer Fire Department Workers'  
91 Compensation Subsidy Program by the total premium minus the  
92 total base year premium, which calculation produces the "total  
93 shortfall multiplier"; and

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

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

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

106 (g) The Auditor may promulgate emergency rules and may  
107 propose for promulgation legislative rules, in accordance with  
108 the provisions of article three, chapter twenty-nine-a of this code,  
109 as are necessary to provide for implementation and enforcement  
110 of the provisions of this section.

111 (h) The volunteer fire departments' workers' compensation  
112 premium subsidy program shall undergo a review to assess its  
113 effectiveness after three years of operation. The Auditor shall  
114 submit a report to the Joint Committee on Government and  
115 Finance not later than February 1, 2015, and provide details of  
116 the program operation including funds distributed and  
117 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.**

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

16 (b) Beginning July 1, 2013, and in each fiscal year thereafter  
17 until June 30, 2016, the excess of the aggregate of amounts  
18 collected by the commissioner that are otherwise required under  
19 any provision of this code to be deposited into the Fire

20 Protection Fund over the aggregate of those amounts deposited  
21 into the Fire Protection Fund during the fiscal year ending June  
22 30, 2013, shall be deposited into the Volunteer Fire Department  
23 Workers' Compensation Premium Subsidy Fund and expended  
24 solely for the purposes established in section fourteen-a, article  
25 four, chapter twelve of this code.

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

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

46 (1) An assessment of all current funding received by the  
47 volunteer fire companies and departments, and a further  
48 assessment of the funding necessary to provide the community  
49 protections required for the areas served by the volunteer fire  
50 companies and departments, the extent to which those needs are  
51 being met, the extent to which they are not being met, and  
52 recommendations of sources of funds to meet additional needs  
53 and the amounts needed, if any;

54 (2) An assessment of the cost of workers' compensation  
55 coverage for the volunteer fire companies and departments and  
56 recommendations for any actions that may be undertaken by the  
57 volunteer fire companies and departments and others to reduce  
58 those costs;

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

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

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

80 (6) An assessment of the comparative levels of funding for  
81 volunteer fire companies and departments provided by their own  
82 efforts, and the means by which that funding is provided,  
83 including identification of those which provide little or no  
84 funding through their own efforts, together with  
85 recommendations for increasing these sources of funding;



86       (7) An assessment of the comparative economic and other  
87 benefits provided by the various volunteer fire companies and  
88 departments to their particular counties, municipalities and other  
89 political subdivisions, as well as to citizens of the local  
90 communities they serve;

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

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

98       (d) Upon the conclusion of the fiscal year ending June 30,  
99 2016, the provisions of this section and section fourteen-a, article  
100 four, chapter twelve of this code shall expire and be of no further  
101 force and effect and the Volunteer Fire Department Workers'  
102 Compensation Premium Subsidy Fund shall be closed. Upon  
103 closure of the fund, from any balances therein remaining, the  
104 State Auditor shall first, to the extent available, transfer to the  
105 Fire Protection Fund an amount equal to the aggregate of funds  
106 deposited into the Volunteer Fire Department Workers'  
107 Compensation Premium Subsidy Fund during the fiscal years  
108 ending June 30, 2014, 2015 and 2016 pursuant to subsection (b)  
109 of this section that would otherwise have been required to be  
110 deposited into the Fire Protection Fund, and any balances  
111 thereafter remaining in the Volunteer Fire Department Workers'  
112 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.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
*Governor*

