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**H. B. 2426**

(By Delegates Walters, Frich, R. Phillips, J. Nelson, Folk, R. Smith,  
Marcum, Ireland, D. Evans, Hanshaw and H. White)

[Introduced January 27, 2015; referred to the  
Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §33-2-21a of the Code of West Virginia, 1931, as amended, relating to the Volunteer Fire Departments Workers’ Compensation Subsidy Program and the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund; and providing for the merger of the purposes and provisions of that subsidy program and the subsidy fund in the state agency workers’ compensation programs section of the code.

*Be it enacted by the Legislature of West Virginia:*

That §33-2-21a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. INSURANCE COMMISSIONER.**

**§33-2-21a. State agency workers’ compensation programs.**

(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 and the Volunteer Fire Departments Workers’ Compensation Subsidy Program and the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund. For the purposes of this section:

1           (1) "Discretionary participant" means the Parkways Authority, offices of the State Auditor,  
2 the State Treasurer, the Secretary of State, the Attorney General, the Department of Agriculture, the  
3 state Senate and House of Delegates or their related entities, the Supreme Court of Appeals, the State  
4 Police, Volunteer Fire Departments and any other spending unit of the state that is required by  
5 section twelve, article two, chapter eleven-b of this code to provide a detailed expenditure schedule  
6 to the Secretary of Revenue in his or her capacity as Director of the Budget: *Provided*, That the term  
7 "discretionary participant" does not include any executive state entity other than the State Police and  
8 the Parkways Authority, any county board of education, any other county entity or its instrumentality  
9 or any municipality or its instrumentality.

10           (2) "Executive state entity" means the Governor's Office and its affiliated entities, Bureau  
11 of Senior Services, or any state department, division, fund, office, position, system, survey or other  
12 entity of state government, however designated, transferred to and incorporated in one of the  
13 executive departments created in section two, article one, chapter five-f of this code, except the State  
14 Police, and that is required by section twelve, article two, chapter eleven-b of this code to provide  
15 a detailed expenditure schedule to the Secretary of Revenue in his or her capacity as Director of the  
16 Budget.

17           (b) Notwithstanding any provision of this code to the contrary, the commissioner has sole  
18 responsibility for managing the workers' compensation risks of all executive state entities and for  
19 supervising and controlling the workers' compensation programs for such entities: *Provided*, That  
20 any discretionary participant may participate in the program upon application to the commissioner  
21 under the same terms and conditions as are applicable to executive state entities: *Provided, further*  
22 however, That a discretionary participant is, in accordance with rules governing the program,

1 permitted to withdraw from continued participation in the program.

2 (c) The commissioner may assess such fees or surcharges on participants in the program  
3 necessary to manage the workers' compensation risks of those participants. All premiums, fees and  
4 surcharges shall be established in accordance with generally acceptable actuarial standards applicable  
5 to workers' compensation coverage as to each participant and as to all participants in the aggregate.  
6 The commissioner shall establish criteria for assessments of premiums, fees and surcharges designed  
7 to provide the most cost efficient coverage for all participants.

8 (d) The provisions of article three, chapter five-a of this code relating to the Purchasing  
9 Division of the Department of Administration do not apply to any contract entered into by the  
10 commissioner in furtherance of the requirements of this section: *Provided*, That those contracts shall  
11 be awarded on a competitive basis.

12 (e) (1) There is hereby established the "State Entities Workers' Compensation Program  
13 Fund." All premiums, surcharges, assessments, deposits or any other moneys or funds deposited or  
14 otherwise designated or accruing to the fund as well as all earnings payable to it, shall be deposited  
15 in the State Treasury to the credit of the fund. Expenditures from the fund shall be for the purposes  
16 set forth in this section, are authorized from collections, and shall not revert to the General Fund.  
17 The fund shall be a separate and distinct fund upon the books and records of the Auditor and  
18 Treasurer, and disbursements therefrom shall be made upon requisitions signed by the Insurance  
19 Commissioner: *Provided*, That notwithstanding any provision of this section to the contrary,  
20 effective July 1, 2015, the "Volunteer Fire Department Workers' Compensation Subsidy Program"  
21 created by section fourteen-a, article four, chapter twelve of this code, and the "Volunteer Fire  
22 Department Workers' Compensation Premium Subsidy Fund" created by section thirty-three-a,

1 article three of this chapter and all of the provisions and purposes of those sections, shall be merged  
2 with this section.

3 (2) Any premiums, assessments or deposits or any other moneys or funds received for the  
4 purposes of this section shall be invested by the State Treasurer at the request of the commissioner.

5 (3) The Insurance Commissioner may borrow funds as is determined necessary from the  
6 Insurance Commission Fund, created in section thirteen-b, article three, chapter thirty-three of this  
7 code, for the initial operations of the workers' compensation program for state entities: *Provided,*  
8 That any borrowed funds shall be deposited to the credit of the state Entities Workers' Compensation  
9 Program Fund: *Provided, however,* That these borrowed funds shall be repaid, without interest, and  
10 redeposited to the credit of the Insurance Commission Fund as determined by the Insurance  
11 Commissioner.

12 (f) The commissioner may promulgate emergency rules and shall propose for legislative  
13 approval legislative rules, in accordance with the provisions of article three, chapter twenty-nine-a  
14 of this code, as are necessary to provide for implementation and enforcement of the provisions of  
15 this section.

16 (g) The commissioner shall submit reports on the status and progress of the program  
17 established in this section to the Joint Committee on Government and Finance monthly and upon  
18 request, together with any other specific information on the program requested by the committee.

19 (h) The commissioner shall consult with the state Board of Risk and Insurance Management  
20 to solicit any applicable experience and expertise in establishing and managing a program to provide  
21 insurance coverage to state agencies.

NOTE: The purpose of this bill is to provide for the merger of the purposes and provisions of the Volunteer Fire Departments Workers' Compensation Subsidy Program and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund, in §12-4-14A and §33-3-33a of the code, in the state agency workers' compensation programs so that there is no duplication of the purposes of the subsidy program.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.