

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4176

BY DELEGATE WALTERS (SOLE SPONSOR-
RESIGNED 3/7/18)

[Introduced January 18, 2018; Referred
to the Committee on Banking and Insurance then
Finance.]

1 A BILL to amend and reenact §33-2-21a of the Code of West Virginia, 1931, as amended, relating
 2 to allowing the West Virginia Insurance Commissioner to self-insure state agencies
 3 Workers' Compensation programs in lieu of purchasing state agencies Workers
 4 Compensation Insurance.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-21a. State agency Workers' Compensation programs.

1 (a) The intent of this section is to provide a means of managing workers' compensation
 2 coverage for persons directly employed by the State of West Virginia. For the purposes of this
 3 section:

4 (1) "Discretionary participant" means the Parkways Authority, offices of the State Auditor,
 5 the State Treasurer, the Secretary of State, the Attorney General, the Department of Agriculture,
 6 the State Senate and House of Delegates or their related entities, the Supreme Court of Appeals,
 7 the State Police and any other spending unit of the state that is required by §11B-2-12 of this
 8 code to provide a detailed expenditure schedule to the Secretary of Revenue in his or her capacity
 9 as Director of the Budget: *Provided*, That the term "discretionary participant" does not include any
 10 executive state entity other than the State Police and the Parkways Authority, any county board
 11 of education, any other county entity or its instrumentality or any municipality or its instrumentality.

12 (2) "Executive state entity" means the Governor's Office and its affiliated entities, Bureau
 13 of Senior Services, or any state department, division, fund, office, position, system, survey or
 14 other entity of state government, however designated, transferred to and incorporated in one of
 15 the executive departments created in §5F-1-2 of this code, except the State Police, and that is
 16 required by §11B-2-12 of this code to provide a detailed expenditure schedule to the Secretary of
 17 Revenue in his or her capacity as Director of the Budget.

18 (b) Notwithstanding any provision of this code to the contrary, the Insurance
 19 Commissioner, in his or her discretion, may self-insure the state Workers' Compensation Program

20 beginning on January 1, 2019: *Provided*, That if the commissioner decides to self-insure the
21 Workers' Compensation program, it may only happen on the plan's renewal date. If the
22 commissioner decides to self-insure the state agencies Workers' Compensation program the self-
23 insured program shall provide comparable coverage to the coverage that was in effect prior to the
24 change.

25 ~~(b)~~ (c) Notwithstanding any provision of this code to the contrary, the commissioner has
26 sole responsibility for managing the workers' compensation risks of all executive state entities and
27 for supervising and controlling the workers' compensation programs for such entities: *Provided*,
28 That any discretionary participant may participate in the program upon application to the
29 commissioner under the same terms and conditions as are applicable to executive state entities:
30 *Provided, however*, That a discretionary participant is, in accordance with rules governing the
31 program, permitted to withdraw from continued participation in the program.

32 ~~(e)~~ (d) The commissioner may assess such fees or surcharges on participants in the
33 program necessary to manage the workers' compensation risks of those participants. All
34 premiums, fees and surcharges shall be established in accordance with generally acceptable
35 actuarial standards applicable to Workers Compensation coverage as to each participant and as
36 to all participants in the aggregate. The commissioner shall establish criteria for assessments of
37 premiums, fees and surcharges designed to provide the most cost efficient coverage for all
38 participants.

39 ~~(d)~~ (e) The provisions of §5A-3-1 et seq. of this code relating to the Purchasing Division of
40 the Department of Administration do not apply to any contract entered into by the commissioner
41 in furtherance of the requirements of this section: *Provided*, That those contracts shall be awarded
42 on a competitive basis.

43 ~~(e)~~ (f) (1) There is hereby established the "State Entities Workers' Compensation Program
44 Fund." All premiums, surcharges, assessments, deposits or any other moneys or funds deposited
45 or otherwise designated or accruing to the fund as well as all earnings payable to it, shall be

46 deposited in the State Treasury to the credit of the fund. Expenditures from the fund shall be for
47 the purposes set forth in this section, are authorized from collections, and shall not revert to the
48 General Fund. The fund shall be a separate and distinct fund upon the books and records of the
49 Auditor and Treasurer, and disbursements therefrom shall be made upon requisitions signed by
50 the Insurance Commissioner.

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

54 (3) The Insurance Commissioner may borrow funds as is determined necessary from the
55 Insurance Commission Fund, created in §33-3-13b of this code, for the initial operations of the
56 workers' compensation program for state entities: *Provided*, That any borrowed funds shall be
57 deposited to the credit of the state Entities Workers' Compensation Program Fund: *Provided*,
58 *however*, That these borrowed funds shall be repaid, without interest, and redeposited to the
59 credit of the Insurance Commission Fund as determined by the Insurance Commissioner.

60 ~~(f)~~ (g) The commissioner may promulgate emergency rules and shall propose for
61 legislative approval legislative rules, in accordance with the provisions of §29A-3-1 *et seq.* of this
62 code, as are necessary to provide for implementation and enforcement of the provisions of this
63 section.

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

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

NOTE: The purpose of this bill is to allow the West Virginia Insurance Commissioner to

self-insure state agencies Workers' Compensation programs in lieu of purchasing state agencies Workers Compensation Insurance.

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