

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### Senate Bill 91

FISCAL  
NOTE

By Senators Phillips and Caputo

[Introduced January 11, 2023; referred  
to the Committee on Government Organization; and  
then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §15A-11-11a; and to amend and reenact §33-3-33 of said code, all relating to  
 3 fire department recruitment and retention; creating the Fire Service Recruitment and  
 4 Retention Fund; establishing that the purpose of the fund is to provide grants for  
 5 recruitment and retention purposes; requiring the State Fire Commission to create a grant  
 6 program; establishing considerations for awarding grants; providing for rulemaking;  
 7 requiring the State Fire Commission verify eligibility for volunteer fire departments with the  
 8 Legislative Auditor; raising policy surcharge to one percent; and allocating disbursements  
 9 to various funds.

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

## **CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.**

### **ARTICLE 11. FIRE COMMISSION.**

#### **§15A-11-11a. Fire Service Recruitment and Retention Fund; creation of fire service recruitment and retention grant; reports of ineligibility to State Fire Marshal.**

10 (a) There is hereby continued in the Treasury a special revenue fund to be known as the  
 11 Fire Service Recruitment and Retention Fund. Expenditures from the fund by the State Fire  
 12 Commission are authorized from collections. The fund may only be used for the purpose of  
 13 providing grants to volunteer and part-volunteer fire companies and departments and their  
 14 members for the purpose of recruiting and retaining volunteer and part-volunteer firefighters. Any  
 15 balance remaining in the fund at the end of any fiscal year does not revert to the General Revenue  
 16 Fund, but remains in the Special Revenue Fund.

17 (b) The State Fire Commission shall establish a grant program for recruitment and the  
 18 retention of volunteer and part-time volunteer firefighters, including length of service award  
 19 programs (LOSAP). The grant program shall be open to all volunteer and part-volunteer fire  
 20 companies and departments. In making grants pursuant to this section, the State Fire Marshal

21 shall consider:

22 (1) The number of emergency and nonemergency calls responded to by the company or  
23 department;

24 (2) The activities and responses of the company or department;

25 (3) The revenues received by the company or department from federal, state, county,  
26 municipal, local, and other sources; and

27 (4) The company’s or department’s assets, expenditures, and other liabilities, including  
28 whether the fire company or department has availed itself of available statewide contracts.

29 (c) The State Fire Commission may promulgate emergency rules and shall propose  
30 legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code as may be  
31 necessary to implement and comply with the provisions of this section.

32 (d) The Legislative Auditor shall notify the State Fire Marshal of any volunteer or part-  
33 volunteer fire company or department that is ineligible to receive grant funds due to the company’s  
34 or department’s failure to file required bank statements or financial reports or failure to comply with  
35 an audit or review by the Legislative Auditor. A volunteer or part-volunteer fire company or  
36 department reported by the Legislative Auditor shall be ineligible to receive funds under this  
37 section until the Legislative Auditor notifies the State Fire Marshal that the company or department  
38 has come into compliance.

39 (e) For the purpose of this section:

40 "Length of Service Award Program" means a program to provide paid length of service  
41 awards to eligible volunteers.

42 "Eligible volunteer" means a bona fide volunteer who is an active part-time or on-call  
43 member of a volunteer fire department or a volunteer firefighter.

**CHAPTER 33. INSURANCE.**

**ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.**

**§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments; Public Employees Insurance Agency and municipal pension plans; special fund created; allocation of proceeds; effective date.**

1       ~~(a)(1) For the purpose of providing additional revenue for volunteer fire departments, part-~~  
 2 ~~volunteer fire departments and certain retired teachers and the teachers retirement reserve fund,~~  
 3 ~~there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire~~  
 4 ~~insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or~~  
 5 ~~by any risk retention group, a policy surcharge equal to one percent of the taxable premium for~~  
 6 ~~each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions~~  
 7 ~~(2) and (3) of this subsection.~~

8       ~~(2) After June 30, 2005, through December 31, 2005, for the purpose of providing~~  
 9 ~~additional revenue for volunteer fire departments, part-volunteer fire departments and to provide~~  
 10 ~~additional revenue to the Public Employees Insurance Agency and municipal pension plans, there~~  
 11 ~~is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire~~  
 12 ~~insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or~~  
 13 ~~by any risk retention group, a policy surcharge equal to one percent of the taxable premium for~~  
 14 ~~each such policy~~

15       (3) (a) After ~~December 31, 2005~~ June 30, 2023, for the purpose of providing additional  
 16 revenue for volunteer fire departments and part-volunteer fire departments, there is hereby  
 17 authorized and imposed on the policyholder of any fire insurance policy or casualty insurance  
 18 policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy  
 19 surcharge equal to ~~fifty-five one hundredths~~ of one percent of the taxable premium for each such  
 20 policy.

21       ~~(4)(b)~~ For purposes of this section, casualty insurance may not include insurance on the  
 22 life of a debtor pursuant to or in connection with a specific loan or other credit transaction or  
 23 insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other

24 credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may  
25 not be subject to premium taxes, agent commissions or any other assessment against premiums.

26 (b) (c) The policy surcharge shall be collected and remitted to the Commissioner by the  
27 insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is  
28 issued by a risk retention group, by the risk retention group. The amount required to be collected  
29 under this section shall be remitted to the Commissioner on a quarterly basis on or before the 25th  
30 day of the month succeeding the end of the quarter in which they are collected, except for the  
31 fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding  
32 year.

33 (e) (d) Any person failing or refusing to collect and remit to the Commissioner any policy  
34 surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing  
35 is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the  
36 Commissioner. The Commissioner may suspend the insurer, broker or risk retention group until all  
37 surcharge payments and penalties are remitted in full to the Commissioner.

38 (d) (e) (1) All money from the policy surcharge shall be collected by the Commissioner who  
39 shall disburse the money received from the surcharge into a special account in the state Treasury,  
40 designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest  
41 thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the  
42 months of January, April, July and October to each volunteer fire company or department on an  
43 equal share basis by the state Treasurer. ~~After June 30, 2005, the money received from the~~  
44 ~~surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.~~

45 ~~(2)(A) After June 30, 2005, through December 31, 2005, all money from the policy~~  
46 ~~surcharge shall be collected by the Commissioner who shall disburse one half of the money~~  
47 ~~received from the surcharge into the Fire Protection Fund for distribution as provided in~~  
48 ~~subdivision (1) of this subsection.~~

49 (B) The remaining portion of moneys collected shall be transferred into the fund in the state

50 ~~Treasury of the Public Employees Insurance Agency into which are deposited the proportionate~~  
51 ~~shares made by agencies of this state of the Public Employees Insurance Agency costs of those~~  
52 ~~agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the~~  
53 ~~remain portion shall be transferred to the special account in the state Treasury, known as the~~  
54 ~~Municipal Pensions and Protection Fund~~

55 ~~(3)~~ (2) After ~~December 31, 2005~~ June 30, 2023, all money from the policy surcharge shall  
56 be collected by the Commissioner who shall disburse all of the money received from the surcharge  
57 as follows:

58 (A) Sixty-four percent into the Fire Protection Fund for distribution as provided in  
59 subdivision (1) of this subsection;

60 (B) Twenty-two percent into the Fire Service Equipment and Training Fund established by  
61 §15A-11-11 of this code; and

62 (C) Fourteen percent into the Fire Service Recruitment and Retention Fund established by  
63 §15A-11-11a of this code.

64 ~~(4)~~ (3) Before each distribution date to volunteer fire companies or departments, the state  
65 Fire Marshal shall report to the state Treasurer the names and addresses of all volunteer and part-  
66 volunteer fire companies and departments within the state which meet the eligibility requirements  
67 established in §8-15-8a of this code.

68 ~~(e)~~ (f) The allocation, distribution and use of revenues provided in the Fire Protection Fund  
69 are subject to the provisions of §8-15-8a and §8-15-8b of this code.

NOTE: The purpose of this bill is to provide for recruitment and retention of volunteer and part volunteer fire departments.

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