

Funding Subcommittee Report To:

West Virginia Volunteer Fire Department Workers Compensation Group

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Introduction

The initial meeting of the West Virginia Volunteer Fire Department Workers Compensation Group (WC Workgroup) was held on July 8, 2010. The WC Workgroup was formed by Virgil Helton, former Department of Revenue Cabinet Secretary, at the request of then Governor Manchin to develop possible long-term solutions to significant workers' compensation insurance cost increases faced by volunteer fire departments throughout the State. Four subcommittees were formed to examine all aspects of workers compensation including deliberate intent, funding, compensable injury and risk management.

The funding subcommittee initially met on July 30th to define the workers compensation funding issues and to develop a laundry list of possible funding alternatives. Follow-up meetings occurred on August 6th and September 24th to further develop a consensus report of the subcommittee findings and recommendations along with an additional summary of minority recommendations. This report contains those findings and recommendations.

Funding Issues

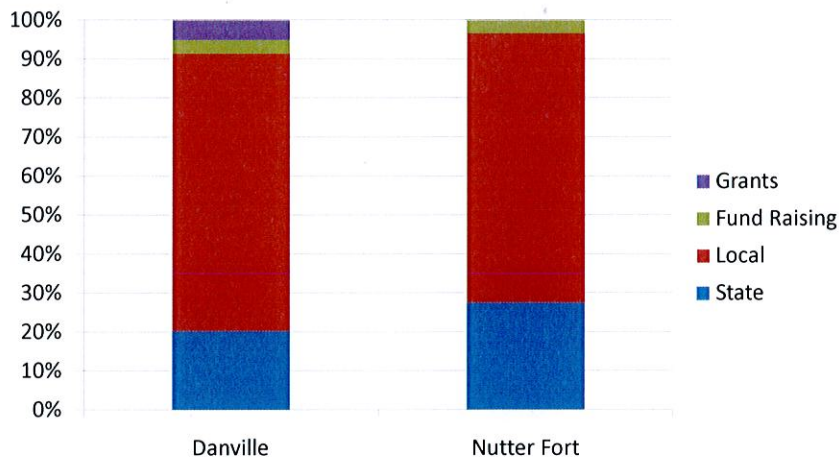
For a number of years, workers' compensation premium rates for volunteer fire departments were suppressed below actual cost. Other employment classifications effectively subsidized the volunteer fire department (VFD) classification. BrickStreet Mutual Insurance (BrickStreet) replaced a state-run program and became the sole provider of workers' compensation insurance to West Virginia State and local government entities including VFDs between January 1, 2006 and June 30, 2010. As of July 1, 2010, the workers' compensation insurance market for State and local government employers fully opened up to competition. Facing significant losses on this type of coverage, BrickStreet initially sought to alter the wage base of the premium calculation for volunteer firefighters from minimum wage to the average wage of full-time firefighters effective July 1, 2010. The proposed change would have doubled the cost of coverage for a number of VFDs. BrickStreet subsequently agreed to continue coverage at existing rates for one additional year with the understanding that it would drop coverage for VFDs effective July 1, 2011.

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Representatives of the Office of Insurance Commissioner (OIC) believe that coverage for VFDs will then fall to the residual market. The initial projected increase in cost to VFDs is up to \$5.3 million or an average of \$12,000 to \$12,500 per department. This additional projected cost represents a significant funding challenge for many VFDs in the State.

VFDs receive a significant share of their total finances from local governments and from the State. The following graph illustrates the major sources of finance for the Danville VFD and for the Nutter Fort VFD. The Danville VFD receives 71% of its funds from local governments in Boone County and the Nutter Fort VFD receives nearly 69% of its funds from local governments in Harrison County. The second largest source of funds for both VFDs comes from the State. The State share is 20% for Danville and 27% for Nutter Fort. Fund raising efforts generate roughly 3.5% of total revenue for each VFD and grants generate 5% of total revenue for Danville. Based upon these numbers, the Committee generally agrees that most additional funds necessary to pay the higher workers' compensation premiums need to come from government sources.

Sources of Revenue: Example of Two Volunteer Fire Departments



Even though the average additional workers' compensation cost could be as high as \$12,500 per department, the actual distribution of cost among VFDs would vary significantly according to their actual size in terms of labor and their service utilization levels. This finding is significant because the current State funding model and some local government funding models provide an equal amount of funds each year for each VFD. These funds are generally dedicated toward equipment purchases and not toward the payment of worker's compensation premiums. A simulation matching projected worker's compensation insurance premium costs

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for VFDs by County as provided by OIC with an equally divided sum of funds per VFD matching total projected premium costs yields the following results.

- VFDs in 33 counties collectively receive more than 100% funding and VFDs in 22 counties collectively receive less than 100% funding
- The excess exceeds 10% in 25 counties and exceeds double the cost of worker's compensation in 7 counties
- The shortfall exceeds 10% in 11 counties and covers two-thirds or less of the cost of worker's compensation in 7 counties.
- Only one-third of the cost is funded in one county while 368% is funded in another county.
- Within a number of counties, some VFDs would receive more funding than necessary to fully cover their workers' compensation premiums and some VFDs would receive less funding than necessary.

These results strongly suggest the need for alternative government funding formulas to more efficiently fund the added costs of workers' compensation.

During the Funding Subcommittee meetings, representatives of both local governments and the State expressed a general feeling that they are very much in the dark with regard to knowledge of VFD finances. This lack of knowledge may be a contributory factor to the current equal funding formulas that provide each VFD with the exact same amount of funds regardless of manpower and service utilization levels. The lack of financial transparency may also be a contributing factor to lower than optimal funding from both governmental units and the public at large. Some financial accountability may be necessary for an efficient government formula to fund portions of the workers' compensation insurance liability. Workers' compensation payout loss accountability should also be an important factor in the future funding of VFDs.

Funding Options

The Funding Subcommittee reviewed all of the major VFD government funding mechanisms in use in West Virginia. The current major funding sources include excess property tax levies, county fire service board fees, municipal fire protection service fees, general government fund appropriations and State insurance premium taxes and surcharges. In addition to government funding, VFDs conduct their own fund raising by soliciting donations

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from customers within their territory, by renting facilities, by conducting special fund raisers and through occasional billings for services rendered.

According to information published in the West Virginia State Auditor's *Special Excess Levies*, seven county commissions [Boone, Brooke, Cabell, Fayette, Hampshire, Lincoln, and Taylor] impose an excess property tax levy for fire protection and seven additional county commissions [Calhoun, Doddridge, Gilmer, Logan, Mineral, Roane and Wayne] impose an excess property tax levy for fire, ambulance and emergency medical services. There are sixteen municipalities [Barboursville, Lewisburg, Bridgeport, Clarksburg, Nutter Fort, Dunbar, Nitro, South Charleston, St. Albans, Richwood, St. Mary's, Hinton, Sistersville, Ceredo, Kenova and Mullens] with an excess property tax levy related to fire and emergency medical services. Roughly \$8 million or more is generated annually from excess property tax levies dedicated to fire protection statewide.

Based upon available information, there are four counties [Berkeley, Mercer, Morgan and Putnam] that currently impose fire service fees through a fire service board. The fee structure varies for each county. Total fee collections are roughly estimated to be in the neighborhood of \$3 million per year. The establishment of a county fire service board and fee structure requires an initial petition by 10% of qualified voters in the county and is subject to a county referendum if at least 30% of qualified voters petition in protest.

Municipal fire service fees generate more than \$15 million each year for fire protection in approximately thirty or so municipal governments around the State. In many cases, the operational territory of a municipal VFD extends beyond the boundaries of the municipal government itself. However, the capacity to effectively levy municipal fire service fees is restricted to the borders of the municipality under current State Law.

Some local governments provide funds to VFDs through general fund appropriation. Through such a process the Harrison County Commission provides each of its VFDs with annual funding of \$17,000. The total statewide funding of VFDs through this means is unknown.

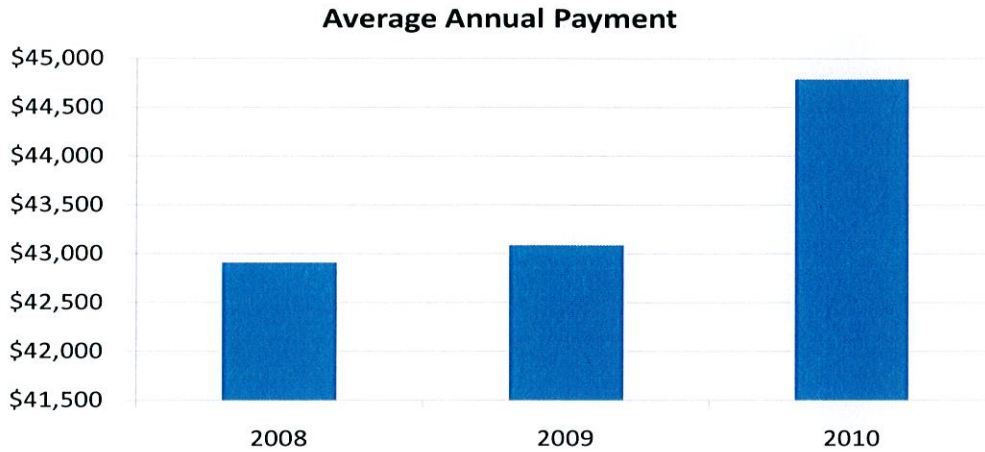
West Virginia State government funds VFDs through insurance premium taxes and surcharges on all property and casualty premiums and certain other premiums. VFDs receive funding from 25% of a special 1.0 percent insurance premium tax specifically dedicated to local government pensions, teachers' retirement and VFDs plus additional funding from a 0.55 percent surcharge. These sources collectively generated \$18.6 million for VFD funding in FY2010, an increase of 75% from the \$10.6 million generated in FY1999. These funds are generally pro-rated equally by the State Treasurer to each of the 422 full volunteer VFDs in the State. As illustrated in the following graph, the average payment to a full volunteer VFD rose from \$42,912 in FY2008 to \$44,790 in FY2010.

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Average State Payment to VFD

Rose from \$42,912 in 2008 to \$44,790 in 2010

Source: West Virginia State Treasurer's Tax Distributions as of Year-end July



One partial workers' compensation funding option under discussion would involve capping the total amount available to VFDs through the current equal funding formula and then capturing the increment above the cap for purposes of an alternative formula based upon relative merit and need. The total value of increment over the two year period between 2008 and 2010 is a sum of roughly \$800,000.

One of the Funding Subcommittee findings is that West Virginia imposes relatively high tax rates on insurance premiums. Total current West Virginia insurance premium tax rates are among the highest in the country with a total rate of 4.55% on property and casualty premiums and 5.05% on fire premiums.

Consensus Conclusions

After four meetings, the Funding Subcommittee reached the following consensus conclusions:

- VFDs will likely experience collective workers compensation premium cost increases of up to \$5.3 million effective July 1, 2011 in a residual market.
- The cost of insurance is variable and depends upon long-run experience factors for each VFD. Lower cost payouts should result in lower premiums over time.

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- The price of workers compensation insurance is the primary incentive for the employer to engage in proper risk management behavior to minimize costs. A funding solution needs to contain adequate incentives for the proper management of workplace safety and compensation claims.
- State and local governments will need to assist VFDs with some additional funds toward the payment of increased workers compensation premiums effective July 1, 2011.
- New revenue distribution formulas need to be explored to better match new revenues with increased costs. VFDs with higher than average volunteer labor and higher than average levels of utilization need to be funded at higher levels than VFDs with below average utilization.
- Some portion of financial assistance should be based upon merit and good practices. Incremental revenues above baseline revenues for dedicated taxes could be used in such manner.
- Government representatives desire more financial accountability and transparency from VFDs in exchange for increased levels of financial assistance.
- Economic recovery from the Great Recession has been painfully slow especially for those who are unemployed. Given current realities, the Funding Subcommittee recommends no tax increases on either the State or local level for purposes of funding increased workers compensation costs for VFDs.
- The Funding Subcommittee recommends that the State take the lead in providing some additional funds for VFDs out of general appropriations to cover some portion of the Fiscal Year 2012 premium increase. Due to the timing of the premium increases, the appropriation may need to be in the form of a supplement to Fiscal Year 2011 expenditures. The funding needs should then be reevaluated in future years.
- The Funding Subcommittee recommends that local governments be encouraged to make some additional effort to assist VFDs within their jurisdictions.
- The Funding Subcommittee recommends that the Legislature review current State mandated rules related to local government funding options for VFDs in an effort to allow local governments greater capacity and flexibility to fund their VFDs through equitable means.
- The Funding Subcommittee recommends that some portion of the cost be absorbed by the VFDs or that alternative incentives are put in place to ensure optimal employer management practices.