

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

SENATE BILL NO. 89

(By Senator Brackenrich, et al.)



PASSED March 9, 1990

In Effect 90 days from Passage

770.89

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Senate Bill No. 89

(BY SENATORS BRACKENRICH AND SPEARS)

[Passed March 9, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article one, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to continuing the office of workers' compensation commissioner.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

§23-1-1. Workers' compensation commissioner; appointment; term; oath; bond; conflict of interest; compensation; official seal; legal services; references to director deemed to mean commissioner; references to workmen's compensation deemed to mean workers' compensation.

1 There shall be a state workers' compensation com-
2 missioner who shall be appointed by the governor by
3 and with the advice and consent of the Senate and
4 who shall serve at the will and pleasure of the
5 governor during the term for which the governor was
6 elected and until the commissioner's successor has

7 been appointed and qualified. An appointment may be
8 made to fill a vacancy or otherwise when the Senate
9 is not in session, but shall be acted upon at the next
10 session thereof. The person so appointed shall take the
11 oath or affirmation prescribed by section five, article
12 IV of the Constitution, and such oath shall be certified
13 by the person who administers the same and shall be
14 filed in the office of the secretary of state. The person
15 so appointed shall give bond in the penalty of twenty-
16 five thousand dollars conditioned for the faithful
17 performance of the duties of this office, which bond
18 shall be approved by the attorney general as to form,
19 and by the governor as to sufficiency. The surety of
20 such bond may be a bonding or surety company, in
21 which case the premiums shall be paid out of the
22 appropriation made for the administration of this
23 chapter. The commissioner shall hold no position of
24 trust or profit, or engage in any occupation or busi-
25 ness, interfering or inconsistent with the duties as
26 such commissioner. The commissioner shall have an
27 official seal for the authentication of orders and
28 proceedings, upon which seal shall be engraved the
29 words "West Virginia Compensation Commissioner"
30 and such other design as the commissioner may
31 prescribe. The courts in this state shall take judicial
32 notice of the seal of the commissioner and in all cases
33 copies of orders, proceedings or records in the office of
34 the West Virginia compensation commissioner shall be
35 equal to the original in evidence.

36 The attorney general shall perform all legal services
37 required by the commissioner under the provisions of
38 this chapter: *Provided*, That in any case in which an
39 application for review is prosecuted from any final
40 decision of the workers' compensation appeal board to
41 the supreme court of appeals, as provided by section
42 four, article five of this chapter, or in any court
43 proceeding before the workers' compensation appeal
44 board, or in any proceedings before the office of
45 judges, in which such representation shall appear to
46 the commissioner to be desirable, the commissioner
47 may designate a regular employee of this office,
48 qualified to practice before such court to represent the

49 commissioner upon such appeal or proceeding, and in
50 no case shall the person so appearing for the commis-
51 sioner before the court receive remuneration therefor
52 other than such person's regular salary.

53 Whenever in this chapter or elsewhere in law
54 reference is made to "state director of workmen's
55 compensation" or "compensation commissioner" such
56 reference shall henceforth be construed and under-
57 stood to mean "state workers' compensation
58 commissioner".

59 Whenever in this chapter or elsewhere in law
60 reference is made to the term "workmen's compensa-
61 tion" or reference is made to the "workmen's compen-
62 sation advisory board", "workmen's compensation
63 fund", "disabled workmen's relief fund" and "work-
64 men's compensation appeal board", such references to
65 and the titles of each such board or fund shall hence-
66 forth be construed to mean, and shall be defined to
67 mean, respectively "workers' compensation",
68 "workers' compensation advisory board", "workers'
69 compensation fund", "disabled workers' relief fund"
70 and "workers' compensation appeal board".

71 Pursuant to the provisions of section four, article
72 ten, chapter four of this code, the office of workers'
73 compensation commissioner shall continue to exist
74 until the first day of July, one thousand nine hundred
75 ninety-one, to allow for the completion of an audit by
76 the joint committee on government operations.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Fredrick L. Perry
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell Holmes
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Neth Sandette
.....
President of the Senate

Bo ACOAL
.....
Speaker House of Delegates

The within is approved this the *26th* day of *March*, 1990.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/30/40

Time

10:05 am

RECEIVED

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OFFICE OF JUST ADMINISTRATION
SECRETARY OF DEFENSE