WEST VIRGINIA CODE CHAPTER 23 ARTICLE 1

WV Legislature

§23-1-1. Regulation of the workers' compensation system by the Insurance Commissioner; findings.

(a) As recognized by the Supreme Court of Appeals of West Virginia in Wampler Foods, Inc. v. Workers' Compensation Division, 216 W.Va. 129, 602 S.E.2d 805 (2004), and in recognition that a deficit of such critical proportions existed in the workers' compensation fund that it constituted an immediate and long term threat to the solvency of the fund, as well as a substantial deterrent to the economic development of this state, and further that lawmakers are uniquely charged with the responsibility for passing laws designed to cure such serious concerns and that substantial deference is accorded to legislative actions aimed at doing so, it was and remains the intent of the Legislature that the amendments to this chapter enacted in the year 2003 be applied from the date upon which the enactment was made effective by the Legislature.

(b) It is the further intent of the Legislature that this chapter be interpreted so as to assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of this chapter. It is the specific intent of the Legislature that workers' compensation cases shall be decided on their merits and that a rule of "liberal construction" based on any "remedial" basis of workers' compensation legislation shall not affect the weighing of evidence in resolving such cases. The workers' compensation system in this state is based on a mutual renunciation of common law rights and defenses by employers and employees alike. Employees' rights to sue for damages over and above medical and health care benefits and wage loss benefits are to a certain degree limited by the provisions of this chapter and employers' rights to raise common law defenses, such as lack of negligence, contributory negligence on the part of the employee, and others, are curtailed as well. Accordingly, the Legislature hereby declares that any remedial component of the workers' compensation laws is not to cause the workers' compensation laws to receive liberal construction that alters in any way the proper weighing of evidence as required by §23-4-1g of this code.

(c) It is the intent of the Legislature, expressed through its enactment of legislation, to transfer the regulation of the workers' compensation system to the Insurance Commissioner. By proclamation of the Governor, as authorized by §23-2C-1 *et seq*. of this code, the Workers' Compensation Commission was terminated on December 31, 2005. To further the transition from the state-operated workers' compensation system to a system of private insurance, the duties and responsibilities of the Workers' Compensation Commission and the board of managers, including, but not limited to, ratemaking and adjudication of claims now reside with the Insurance Commissioner.

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§23-1-1a.

Repealed.

Acts, 2015 Reg. Sess., Ch. 53.

WV Legislature

§23-1-1b. Powers and duties of Insurance Commissioner.

The Insurance Commissioner shall have the power and duty to:

(1) Establish operating guidelines and policies designed to ensure the effective regulation of the workers' compensation insurance market in West Virginia and effectuate the provisions of this chapter;

(2) Employ, direct, and supervise all employees required in the connection with the performance of the duties assigned to the Insurance Commissioner by this chapter;

(3) Reorganize the work of the Insurance Commissioner, its divisions, sections, and offices to the extent necessary to achieve the most efficient performance of its functions.

(4) Keep accurate and complete accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds created in §23-2C-6 of this code;

(5) Invoke any legal or special remedy for the enforcement of orders or the provisions of this chapter;

(6) Ensure that all employees of the Insurance Commissioner follow the orders, operating guidelines, and policies of the agency as they relate to the agency's overall policymaking, management, and adjudicatory duties under this chapter;

(7) Delegate all powers and duties vested in the Insurance Commissioner to his or her appointees and employees: *Provided*, That the Insurance Commissioner is responsible for their acts;

(8)(A) Contract or employ counsel to perform all legal services for the Insurance Commissioner including, but not limited to, representing the Insurance Commissioner in any administrative proceeding and in any state or federal court. Additionally, the Insurance Commissioner may, but shall not be required to, call upon the Attorney General for legal assistance and representation as provided by law. The Attorney General shall not approve or exercise authority over in-house counsel or contract counsel hired pursuant to this section;

(B) In addition to the authority granted by this section to the Insurance Commissioner and notwithstanding any provision to the contrary elsewhere in this code, use any attorney regularly employed by the Insurance Commissioner or the Office of the Attorney General to represent the Insurance Commissioner in any matter arising from the performance of his or her duties or the execution of his or her powers under this chapter.

(9) Propose rules for approval by the Industrial Council created in §23-2C-5 of this code, under which agencies of this state shall revoke or refuse to grant, issue, or renew any contract, license, permit, certificate, or other authority to conduct a trade, profession, or business to or with any employing unit who is in default as set forth in §23-2C-19(d)(1) of

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this code or listed in the Employer Violator System with the Insurance Commissioner. The term "agency" includes any unit of state government such as officers, agencies, divisions, departments, boards, commissions, authorities, or public corporations. An employing unit is not in default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with its obligations under the repayment agreements;

(A) The rules shall provide that, before granting, issuing, or renewing any contract, license, permit, certificate, or other authority to conduct a trade, profession, or business to or with any employing unit, the designated agencies shall review a list or lists provided by the Insurance Commissioner of employers that are in default. If the employing unit's name is not on the list, the agency, unless it has actual knowledge that the employing unit is in default, may grant, issue, or renew the contract, license, permit, certificate, or other authority to conduct a trade, profession, or business. The list may be provided to the agency in the form of a computerized database or databases that the agency can access. Any objections to the refusal to issue or renew shall be reviewed under the appropriate provisions of this chapter. The prohibition against granting, issuing, or renewing any contract, license, permit, certificate, or other authority under this subdivision shall remain in full force and effect as promulgated under §21A-2-6 of this code until the rules required by this subdivision are promulgated and in effect;

(B) The rules shall also provide a procedure allowing any agency or interested person, after being covered under the rules for at least one year, to petition the Insurance Commissioner to be exempt from the provisions of the rules;

(10) Deposit to the credit of the appropriate special revenue account or fund, notwithstanding any other provision of this code and to the extent allowed by federal law, all amounts of delinquent payments or overpayments, interest, and penalties thereon and attorneys' fees and costs collected under the provisions of this chapter. The amounts collected shall not be treated by the Auditor or Treasurer as part of the general revenue of the state;

(11) Regularly audit or examine and monitor programs established by self-insured employers or third-party administrators under this chapter to ensure compliance with the Insurance Commissioner's rules and the law;

(12) Oversee the Insurance Fraud Unit that has the responsibility and authority for investigating and controlling insurance fraud and workers' compensation fraud in the State of West Virginia as set forth in §33-41-1 *et seq*. of this code. The fraud unit shall be under the supervision of an inspector general, who shall be appointed by the Insurance Commissioner. Nothing in this section shall preclude private carriers from independently investigating and controlling abuse.

(A) The inspector general shall, with the consent and advice of the Insurance Commissioner, employ all personnel as necessary for the institution, development and finalization of procedures and investigations which serve to ensure that only necessary and proper

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workers' compensation benefits and expenses are paid to or on behalf of injured employees. Qualification, compensation, and personnel practice relating to the employees of the fraud and abuse unit, including that of the position of inspector general, shall be governed by the provisions of the statutes and rules of the classified service pursuant to §29-6-1, *et seq*. of this code. The inspector general shall supervise all personnel;

(B) The fraud unit shall have the following powers and duties:

(i) The fraud unit will take action to identify and prevent and discourage any and all fraud and abuse;

(ii) The fraud unit, in cases of criminal fraud, has the authority to review and prosecute those cases for violations of §23-1-1 *et seq*., §33-1-1 *et seq*., §61-3-1 *et seq*., and §61-4-5 of this code, as well as any other criminal statutes that may be applicable. In addition, the fraud unit not only has the authority to prosecute and refer cases involving criminal fraud to appropriate state authorities for prosecution, but it also has the authority, and is encouraged, to cooperate with the appropriate federal authorities for review and possible prosecution, by either state or federal agencies, of cases involving criminal fraud concerning the Workers' Compensation System in West Virginia; and

(iii) The fraud unit is expressly authorized to initiate investigations and participate in the development of, and if necessary, the prosecution of any health care provider, including a provider of rehabilitation services and in-home caretaker, alleged to have violated the provisions of §23-4-3c of this code;

(C) Specific personnel, designated by the inspector general, shall be permitted to operate vehicles owned or leased for the state displaying Class A registration plates;

(D) Notwithstanding any provision of this code to the contrary, specific personnel designated by the inspector general may carry handguns in the course of their official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency and Correction, which qualifications shall include the successful completion of handgun training provided to law-enforcement officers by the West Virginia State Police: *Provided*, That nothing in this subsection shall be construed to include the personnel so designated by the inspector general to carry handguns within the meaning of the term law-enforcement official as defined in §30-29-1 of this code;

(E) The fraud unit is not subject to any requirement of §6-9a-1 et seq. of this code and the investigations conducted by the fraud unit and the materials placed in the files of the unit as a result of any such investigation are exempt from public disclosure under the provisions of chapter 29B of this code;

(F) In the event that a final judicial decision adjudges that the statewide prosecutorial powers vested by this subdivision in the fraud unit may only be exercised by a public official other than an employee of the fraud unit, then to that extent the provisions of this

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subdivision vesting statewide prosecutorial power shall thenceforth be of no force and effect, the remaining provisions of this subdivision shall continue in full force and effect, and prosecutions hereunder may only be exercised by the prosecuting attorneys of this state and their assistants or special assistant prosecuting attorneys appointed as provided by law;

(13) Enter into interagency agreements to assist in exchanging information and fulfilling the default provisions of this chapter;

(14) Establish an employer violator system to identify individuals and employers who are in default, as defined by §23-2C-19(d)(1) of this code. The employer violator system shall prohibit violators who own, control or have a 10 percent or more ownership interest, or other ownership interest as may be defined by the Insurance Commissioner, in any company from obtaining or maintaining any license, certificate or permit issued by the state until the violator has paid all moneys owed to the Insurance Commissioner or has entered into and remains in compliance with a repayment agreement;

(15) Perform all other functions necessary for the regulation of the workers' compensation insurance industry, including, but not limited to: ratemaking, self-insurance, office of judges, and board of review; and

(16) Perform all duties set forth in §23-2C-1 *et seq*. of this code.

WV Legislature

§23-1-1c. Payment withholding; interception; penalty.

[Repealed.]

WV Legislature

§23-1-1d. Rules of former division of workers' compensation.

[Repealed.]

WV Legislature

§23-1-1e. Transfer of assets and contracts; ability to acquire, own, lease and otherwise manage property.

[Repealed.]

WV Legislature

§23-1-1f. Authority of Insurance Commission to exempt employees from classified service; exemption from purchasing rules.

Notwithstanding any other provision of this code, the Insurance Commissioner may:

(1) Exempt no more than 20 positions of the offices of the Insurance Commissioner from the classified service of the state, the employees of which positions shall serve at the will and pleasure of the commissioner: *Provided*, That such exempt positions shall be in addition to those positions in classified-exempt service under the classification plan adopted by the Division of Personnel; and

(2) Expend such sums for professional services as he or she determines are necessary to perform duties under this chapter. The provisions of §5A-3-1 *et seq*. of this code relating to the Purchasing Division of the Department of Administration shall not apply to these contracts, and the Insurance Commissioner shall award the contract or contracts on a competitive basis.

WV Legislature

§23-1-1g. Legislative intent to create a quasi-public entity.

[Repealed.]

WV Legislature

§23-1-1h. Powers and duties of Office of Judges transferred to Board of Review; definition of certain terms effective July 1, 2022.

(a) Notwithstanding any other provision of this code, with regard to an objection, protest, or any other decision issued after June 30, 2022, all powers and duties of the Workers' Compensation Office of Judges, as provided in this chapter, shall be transferred to the Workers' Compensation Board of Review.

(b) Notwithstanding any other provision of this code, the West Virginia Intermediate Court of Appeals has exclusive appellate jurisdiction over the following matters:

(1) Decisions or orders issued by the Office of Judges after June 30, 2022, and prior to its termination; and

(2) Decisions of the Workers' Compensation Board of Review, issued after June 30, 2022, as provided in §23-5-8a and §51-11-1 *et seq*. of this code.

(c) Unless the context clearly indicates a different meaning, effective July 1, 2022, the following terms shall have the following meanings for the purposes of this chapter, except when used in §23-5-1 *et seq*. of this code:

(1) "Administrative law judge" means a member of the Workers' Compensation Board of Review, or a hearing examiner designated by the Board of Review as authorized in §23-5-1 *et seq*. of this code;

(2) "Office of judges" means the "Workers' Compensation Board of Review"; and

(3) "Workers' Compensation Board of Review" or "Board of Review" when used in reference to an appeal of a Board of Review decision, means the West Virginia Intermediate Court of Appeals, created by §51-11-1 *et seq*. of this code.

WV Legislature

§23-1-2. Oversight of the workers' compensation commission.

[Repealed.]

WV Legislature

§23-1-3. Payment of salaries and expenses generally; manner; limitation.

[Repealed.]

WV Legislature

§23-1-4. Records; confidentiality; exceptions.

Except as expressly provided for in this subsection, information obtained regarding employers and claimants pursuant to this chapter for the purposes of its administration is not subject to the provisions of Chapter 29B of this code unless the provisions are hereafter specifically made applicable, in whole or in part. The information that is reasonably necessary may be released in formal orders or opinions of any tribunal or court which is presented with an issue arising under this chapter as well as in the presentations of the parties before the tribunal or court. Similarly, claimants or other interested parties to an issue arising under this chapter may, upon request, obtain information from the Insurance Commissioner's records to the extent necessary for the proper presentation or defense of a claim or other matter. Information may be released pursuant to the provisions of Chapter 29B of this code only if all identifying information has first been eliminated from the records. Nothing in this subsection shall prevent the release of information to another agency of the state or of the federal government for the legitimate purposes of those agencies: *Provided*, That the agency shall guarantee the confidentiality of the information provided to the fullest extent possible in keeping with its own statutory and regulatory mandates. Nothing in this section shall prevent the Insurance Commissioner from complying with any subpoena duces tecum: *Provided, however*, That the issuing tribunal or court shall take such actions as proper to maintain the confidentiality of the information.

The Insurance Commissioner may release, pursuant to a proper request under the provisions of Chapter 29B of this code, the following information:

(1) Whether or not a specific employer has obtained coverage under the provisions of this chapter;

(2) Whether or not a specific employer is in good standing or is delinquent or in default according to the Insurance Commissioner's records and the time periods thereof; and

(3) If a specific employer is delinquent or in default, what the payments due the Insurance Commissioner are and what the components of that payment are, including the time periods affected.

WV Legislature

§23-1-4a. Bond for executive director and associate director.

[Repealed.]

WV Legislature

§23-1-5. Office of Insurance Commissioner; hearings.

The Insurance Commissioner shall keep and maintain his or her office at the seat of government and shall provide a suitable room or rooms, necessary office furniture, supplies, books, periodicals, maps, and other equipment. After due notice, showing the time and place, the Insurance Commissioner may hold hearings anywhere within the state, or elsewhere by agreement of claimant and employer, with the approval of the Insurance Commissioner.

WV Legislature

§23-1-6. Employment of associate director and other assistants; compensation and travel expenses.

[Repealed.]

WV Legislature

§23-1-7. Associate director to act during executive director's absence or inability to act and in case of vacancy; bond of associate director.

[Repealed.]

WV Legislature

§23-1-8. Authority of Insurance Commissioner and employees as to oaths and evidence.

The Insurance Commissioner and other employees appointed by the Insurance Commissioner may, for the purpose contemplated by this chapter, administer oaths, certify official acts, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of pertinent books, accounts, papers, records, documents, and testimony.

WV Legislature

§23-1-9. Compelling compliance with order or subpoena.

In case of failure or refusal of any person to comply with the order of the Insurance Commissioner, or subpoena issued by him or her, or duly appointed employee, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, or refusal to permit an inspection as aforesaid, the circuit judge of the county in which the person resides, on application of the Insurance Commissioner or any duly appointed employee, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court on a refusal to testify in the court.

WV Legislature

§23-1-10. Fee of officer serving subpoena; fees and mileage of witnesses.

Each officer who serves subpoenas on behalf of the Insurance Commissioner shall receive the same fee as a sheriff and each witness who appears in obedience to a subpoena before the Insurance Commissioner or duly appointed employee shall receive for his or her attendance the fees and mileage provided for witnesses in civil cases in the circuit court if the witness was subpoenaed without the request of either claimant or employer at the instance of the Insurance Commissioner or duly appointed employee. The witness fees and mileage of any witness subpoenaed by, or at the instance of, either claimant or employer shall be paid by the party who subpoenas the witness.

WV Legislature

§23-1-11. Depositions; investigations.

(a) In an investigation into any matter arising under this chapter, the Insurance Commissioner may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in the circuit court, but the depositions shall be upon reasonable notice to claimant and employer or other affected persons or their respective attorneys.

(b) The Insurance Commissioner also has discretion to accept and consider depositions taken within or without the state by either the claimant or employer or other affected person, provided due and reasonable notice of the taking of the depositions was given to the other parties or their attorneys, if any: *Provided*, That the Insurance Commissioner, upon due notice to the parties, has authority to refuse or permit the taking of depositions or to reject the depositions after they are taken, if they were taken at a place or under circumstances which imposed an undue burden or hardship upon the other parties. The Insurance Commissioner's discretion to accept, refuse to approve or reject the depositions is binding in the absence of abuse of the discretion.

WV Legislature

§23-1-12. Copies of proceedings as evidence.

A transcribed copy of the evidence and proceedings, or any specific part thereof, on any investigation or hearing, taken by a stenographer appointed by the Insurance Commissioner and certified and sworn to by the stenographer to be a true and correct transcript of the testimony in the investigation or hearing, or of a particular witness, or of a specific part thereof, or to be a correct transcript of the proceedings had on the investigation or hearing purporting to be taken and subscribed, may be received in evidence by the Insurance Commissioner with the same effect as if the stenographer were present and testified to the facts certified. A copy of the transcript shall be furnished on demand to any party upon payment of the fee prescribed in the rules and policies of the Insurance Commissioner. The fee shall not exceed that prescribed for transcripts in the circuit court.

WV Legislature

§23-1-13. Rules of procedure and evidence; persons authorized to appear in proceedings; withholding of psychiatric and psychological reports and providing summaries thereof.

(a) The Insurance Commissioner shall adopt reasonable and proper rules of procedure, regulate and provide for the kind and character of notices, and the service of the notices, in cases of accident and injury to employees, the nature and extent of the proofs and evidence, the method of taking and furnishing of evidence to establish the rights to benefits or compensation from the fund hereinafter provided for, or directly from employers as hereinafter provided, as the case may require, and the method of making investigations, physical examinations and inspections and prescribe the time within which adjudications and awards shall be made.

(b) At hearings and other proceedings before the Insurance Commissioner or before the duly authorized representative of the Insurance Commissioner, an employer who is a natural person may appear, and a claimant may appear, only as follows:

(1) By an attorney duly licensed and admitted to the practice of law in this state;

(2) By a nonresident attorney duly licensed and admitted to practice before a court of record of general jurisdiction in another state or country or in the District of Columbia who has complied with the provisions of rule 8.0 - admission pro hac vice, West Virginia Supreme Court Rules for admission to the practice of law, as amended;

(3) By a representative from a labor organization who has been recognized by the Insurance Commissioner as being qualified to represent a claimant or who is an individual otherwise found to be qualified by the Insurance Commissioner to act as a representative. The representative shall participate in the presentation of facts, figures, and factual conclusions as distinguished from the presentation of legal conclusions in respect to the facts and figures; or

(4) Pro se.

(c) At hearings and other proceedings before the Insurance Commissioner or before the duly authorized representative of the Insurance Commissioner, an employer who is not a natural person may appear only as follows:

(1) By an attorney duly licensed and admitted to the practice of law in this state;

(2) By a nonresident attorney duly licensed and admitted to practice before a court of record of general jurisdiction in another state or country or in the District of Columbia who has complied with the provisions of rule 8.0 - admission pro hac vice, West Virginia Supreme Court Rules for admission to the practice of law, as amended;

(3) By a member of the board of directors of a corporation or by an officer of the corporation for purposes of representing the interest of the corporation in the presentation of facts,

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figures, and factual conclusions as distinguished from the presentation of legal conclusions in respect to the facts and figures; or

(4) By a representative from an employer service company who has been recognized by the Insurance Commissioner as being qualified to represent an employer or who is an individual otherwise found to be qualified by the Insurance Commissioner to act as a representative. The representative shall participate in the presentation of facts, figures, and factual conclusions as distinguished from the presentation of legal conclusions in respect to the facts and figures.

(d) The Insurance Commissioner or his or her representative may require an individual appearing on behalf of a natural person or corporation to produce satisfactory evidence that he or she is properly qualified and authorized to appear pursuant to this section.

(e) The provisions of §23-1-13(b), (c), and (d) of this code shall not be construed as being applicable to proceedings before the office of judges or board of review pursuant to the provisions of §23-5-1 *et seq*. of this code.

(f) At the direction of a treating or evaluating psychiatrist or clinical doctoral-level psychologist, a psychiatric or psychological report concerning a claimant who is receiving treatment or is being evaluated for psychiatric or psychological problems may be withheld from the claimant. In that event, a summary of the report shall be compiled by the reporting psychiatrist or clinical doctoral-level psychologist. The summary shall be provided to the claimant upon his or her request. Any representative or attorney of the claimant must agree to provide the claimant with only the summary before the full report is provided to the representative or attorney for his or her use in preparing the claimant's case. The report shall only be withheld from the claimant in those instances where the treating or evaluating psychiatrist or clinical doctoral-level psychologist certifies that exposure to the contents of the full report is likely to cause serious harm to the claimant or is likely to cause the claimant to pose a serious threat of harm to a third party.

(g) In any matter arising under §23-1-1 *et seq.*, §23-2-1 *et seq.*, §23-2A-1 *et seq.*, §23-2C-1 *et seq.*, §23-4-1 *et seq.*, §23-4A-1, §23-4B-1 *et seq.*, and §23-5-1 *et seq*. of this code in which the Insurance Commissioner is required to give notice to a party, if a party is represented by an attorney or other representative, then notice to the attorney or other representative is sufficient notice to the party represented.

WV Legislature

§23-1-14. Forms.

The Insurance Commissioner shall prepare and furnish free of cost forms (and provide in his or her rules for their distribution so that they may be readily available) of applications for benefits for compensation, notices to employers, proofs of injury or death, of medical attendance, of employment and wage earnings, and any other forms considered proper and advisable. It is the duty of employers to constantly keep on hand a sufficient supply of the forms.

WV Legislature

§23-1-15. Procedure before Insurance Commissioner.

The Insurance Commissioner is not bound by the usual common-law or statutory rules of evidence, but shall adopt formal rules of practice and procedure as herein provided, and may make investigations in a manner that in his or her judgment is best calculated to ascertain the substantial rights of the parties and to carry out the provisions of this chapter.

WV Legislature

§23-1-16.

Repealed.

Acts, 1999 Reg. Sess., Ch. 294.

WV Legislature

§23-1-17. Annual report by the Insurance Commissioner and Occupational Pneumoconiosis Board.

[Repealed.]

WV Legislature

§23-1-18. Insurance Commissioner employees not subject to subpoena for workers' compensation hearings.

No employee of the Insurance Commissioner shall be compelled to testify as to the basis, findings, or reasons for any decision or order rendered by the employee under this chapter in any hearing conducted pursuant to §23-5-1 *et seq*. of this code.

WV Legislature

§23-1-19. Civil remedies.

(a) Any person, firm, corporation, or other entity which willfully, by means of false statement or representation, or by concealment of any material fact, or by other fraudulent scheme, device, or artifice on behalf of himself or herself, itself, or others, obtains or attempts to obtain benefits, payments, allowances, or reduced premium costs or other charges, including Workers' Compensation coverage, from the Insurance Commissioner, a private carrier, or self-insured employer, to which he, she, or it is not entitled, or in a greater amount than that to which he, she, or it is entitled, shall be liable to the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, in an amount equal to three times the amount of such benefits, payments, or allowances to which he, she, or it is not entitled and shall be liable for the payment of reasonable attorney fees and all other fees and costs of litigation.

(b) No criminal action or indictment need be brought against any person, firm, corporation, or other entity as a condition for establishing civil liability hereunder.

(c) A civil action under this section may be prosecuted and maintained on behalf of the Insurance Commissioner, a private carrier, or self-insured employer by any attorney in contract with or employed by the Insurance Commissioner, a private carrier, or self-insured employer to provide such representation.

(d) Venue for a civil action under this section shall be either in the county in which the defendant resides or in Kanawha County as selected by the Insurance Commissioner. Venue for a civil action under this section for private carriers and self-insured employers shall be either in the county in which the defendant resides or the county in which the injured worker was employed, as selected by the private carrier or self-insured employer.

(e) The remedies and penalties provided in this section are in addition to those remedies and penalties provided elsewhere by law.

WV Legislature

§23-1-20. Employment preference for employees in workers' compensation litigation unit.

[Repealed.]

WV Legislature

§23-1-21. Authorization to require the electronic invoices and transfers.

(a) The Insurance Commissioner shall establish a program to require the acceptance of disbursements by electronic transfer from the funds created in §23-2C-1 *et seq*. of this code to employers, vendors, claimants, and all others lawfully entitled to receive such disbursements.

(b) The Insurance Commissioner may establish a program to require payments of deposits and other funds into the funds created in §23-2C-1 *et seq*. of this code by electronic transfer of funds.

(c) The Insurance Commissioner may establish a program whereby invoices and other charges against the funds created in §23-2C-1 *et seq*. of this code may be submitted to the Insurance Commissioner by electronic means.

(d) Any program authorized by this section must be implemented through a rule promulgated by the Workers' Compensation Industrial Council.

WV Legislature