WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

Committee Substitute

HOUSE BILL No. 1076

(By Mr. Leibert)

PASSED March 11, 1972

In Effect 90 days from Passage

FILED IN THE OFFICE
JOHN G. GORE, JR.
SECRETARY OF STATE
TH.S DATE 3-29-72
AN ACT to amend and reenact sections three, four, seven, nine, ten and eleven, article seven, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article seven by adding thereto a new section, designated section seven-a, all relating to unemployment compensation generally; claims procedure thereunder; the appointment of deputies to hear certain claims; the investigation and hearing procedures for such claims; the initial determination by such deputies; the establishment of appeal tribunals and the hearings and determinations of such appeal tribunals; appeal from the decisions of such tribunals; providing for review by the board of review; and payment of benefits pending such appeal.

Be it enacted by the Legislature of West Virginia:

That sections three, four, seven, nine, ten and eleven, article seven, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article seven be further amended by adding thereto a new section, designated seven-a, all to read as follows:
ARTICLE 7. CLAIM PROCEDURE.

§21A-7-3. Deputies.

1 The commissioner shall appoint deputies to investigate all claims, and to hear and initially determine all claims for benefits excepting claims relating to labor disputes or disqualification under subdivision four of section three, article six of this chapter.

§21A-7-4. Investigation by deputy; notice and hearing before deputy; referral of labor dispute claims for hearing and determination by appeal tribunal; initial determination of other claims by deputy.

1 (a) A deputy shall promptly investigate all claims.
2 (b) Upon the filing of any claim for benefits, notice thereof shall promptly be given by the commissioner or his designee to the employer concerned, in writing. The employer shall have a period of four calendar days from the receipt of such notice within which to furnish to the deputy or his local office initial information respecting the claim and the facts and circumstances pertaining to the claimant's unemployment. If, within said four-day period, any party shall request a hearing before the deputy, such hearing shall be held, upon notice to all parties by the commissioner or his designee, either by delivery in person or by registered or certified mail, return receipt requested, within five calendar days of receipt of such request. Such hearing shall be informal in nature, but shall afford the parties reasonable opportunity to present, in person, information relevant to the eligibility and disqualification of the claimant.
3 (c) If it appears from the deputy's investigation and from all of the information before him, that a claim relates to a labor dispute or to a disqualification under subdivision four of this section three, article six of this chapter, the claim shall be transferred to the board for full hearing and initial determination by an appeal tribunal.
4 (d) If it appears from the deputy's investigation, and from all of the information before him, that a claim does not relate to a labor dispute or to a disqualification under
subdivision four of section three, article six of this chapter, the deputy shall determine whether or not such claim is valid, and, if valid, shall determine:

(a) The week with respect to which benefits will commence;

(b) The amount of benefit;

(c) The maximum duration of benefits.

(e) After any finding or determination by a deputy, the deputy shall promptly notify the claimant and the employer of his findings and decision.

§21A-7-7. Appeal tribunals.

1 The board shall determine the manner of hearing cases transferred or appealed from a decision of a deputy.

2 All cases relating to labor disputes or to disqualification under subdivision (4), section three, article six of this chapter, and transferred to an appeal tribunal for initial determination, shall be heard by an appeal tribunal composed either of three examiners assigned by the board, or the board itself, as the board may direct in particular cases or in particular areas. All other appeals from the decision of a deputy shall be heard by an appeal tribunal composed, as the board may direct in particular cases or in particular areas, of a single examiner; a tribunal of three examiners assigned by the board; a member of the board; or the board itself.

§21A-7-7a. Hearings and determinations by appeal tribunal in labor dispute cases.

1 Upon transfer to the board of a case relating to a labor dispute or to a disqualification under subdivision four, section three, article six of this chapter, for hearing and initial determination by an appeal tribunal, the parties shall be entitled to a full and complete hearing and opportunity to present evidence before an appeal tribunal as provided in section seven of this article. Within eight days after the transfer or referral of such a case to the board, the board shall fix the time and place for hearing such case, and notify the claimant, last employer, and the commissioner, ten days in advance of the date set for hearing. All such cases shall be heard and determined as
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expeditiously as possible and shall be given priority over all other cases. Upon consideration of all evidence the appeal tribunal shall make a decision with respect to all questions fairly raised by the record, within fourteen days after the date of the hearing, and shall notify the claimant, last employer, and the commissioner of its findings and decisions.

§21A-7-9. Appeal from appeal tribunal's decision.

A claimant, last employer, or other interested party may file an appeal to the board from the decision of an appeal tribunal within eight calendar days after notice of the decision has been delivered or mailed to the claimant and last employer. The commissioner shall be deemed an interested party. The decision of the appeal tribunal shall be final unless an appeal is filed within such time.

§21A-7-10. Review by board.

The board may, on its own motion, after notice to the claimant, last employer, and the commissioner, eight days in advance of the date set for hearing affirm, modify, or reverse and set aside a decision of an appeal tribunal. Any appeal from a decision of an appeal tribunal allowing benefits in a case relating to a labor dispute or to a disqualification under subdivision four, section three, article six of this chapter, shall be heard as expeditiously as possible and given priority over all other cases and shall be decided by the board within ten days after the hearing before the board.


Benefits found payable by decision of a deputy, appeal tribunal, the board or court shall be immediately paid in accordance therewith up to the week in which a subsequent appellate body renders a decision, by order, finding that benefits were not or are not payable. If, at any appeal stage, benefits are found to be payable which were found before such appeal stage to be not payable, the commissioner shall immediately reinstate the payment benefits. If the final decision in any case determines that a claimant was not lawfully entitled to bene-
fits paid to him pursuant to a prior decision, such amount of benefits so paid shall be deemed overpaid. The commissioner shall recover such amount by civil action or in any manner provided in this code for the collection of past due payment and shall withhold, in whole or in part, as determined by the commissioner, any future benefits payable to the individual and credit such amount against the overpayment until it is repaid in full. If the final decision in any case determines that the claimant was not lawfully entitled to the benefits paid to him pursuant to a prior order, any benefits so paid pursuant to such prior order, shall not be chargeable to the employer's account.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell E. Beale
Chairman Senate Committee

Peggie J. Cutcliffe
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard G. Ramsey
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

E. H. McCourt
President of the Senate

Lewis A. W. Mann
Speaker House of Delegates

The within ____________________________ this the 27th
day of ____________________________, 1972.

Andrew Manoff
Governor