ENROLLED

House Bill No. 1097

(By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed April 14, 1973; in effect ninety days from passage.]

AN ACT to amend chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-b, relating to the coal-workers' pneumoconiosis fund; its purpose and establishment; to whom benefits are paid; who may subscribe; payment of benefits; how funded; administration; and separability from the workmen's compensation fund; reserving to the Legislature the power to merge, consolidate, alter or liquidate the fund.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article four-b, to read as follows:

ARTICLE 4B. COAL-WORKERS' PNEUMOCONIOSIS FUND.

§23-4B-1. Purpose.

The purpose of this article is to establish a fund to provide benefits to coal miners who are totally disabled by pneumoconiosis and to eligible dependents of coal miners whose deaths were due to pneumoconiosis or who were totally disabled from pneumoconiosis at the time of their deaths. The further purpose of this article is to provide a readily available insurer of liability created by Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended.


For the relief of persons who are entitled to receive benefits by virtue of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, there is hereby established a fund to be known as the coal-workers' pneumoconiosis fund, which fund shall be separate from the workmen's compensa-
The coal-workers' pneumoconiosis fund shall consist of premiums and other funds paid thereto by employers, subject to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, who shall elect to subscribe to such fund to insure the payment of benefits required by such Act. The state treasurer shall be the custodian of the coal-workers' pneumoconiosis fund, and all premiums, deposits or other moneys paid thereto shall be deposited in the state treasury to the credit of the coal-workers' pneumoconiosis fund. Disbursements from such fund shall be made upon requisition signed by the commissioner to those persons entitled to participate therein. The West Virginia state board of investments shall have authority to invest any surplus, reserve or other moneys belonging to the coal-workers pneumoconiosis fund in accordance with article six, chapter twelve of this code.

§23-4B-3. To whom benefits paid.
Only those classes of persons who are entitled to benefits under Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, are eligible to participate in the coal-workers' pneumoconiosis fund.

§23-4B-4. Who may subscribe.
Only those employers who are subject to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, may elect to subscribe to the coal-workers' pneumoconiosis fund to insure such liability as may be imposed upon such employers under the provisions of Title IV of said Act.

§23-4B-5. Payment of benefits.
Upon receipt of an order of compensation issued pursuant to a claim for benefits filed under the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, the commissioner shall disburse the coal-workers' pneumoconiosis fund in such amounts and to such persons as said order shall direct.

§23-4B-6. Coal-workers' pneumoconiosis fund; how funded.
For the purpose of creating the coal-workers' pneumoconio-
sis fund, each employer, who shall elect to subscribe to such fund, shall pay premiums based upon and being such a percentage of the payroll of such employer as the commissioner may determine. It shall be the duty of the commissioner to fix and maintain the lowest possible rates of premiums consistent with the maintenance of a solvent fund and the creation and maintenance of a reasonable surplus after providing for payment to maturity of all liability insured pursuant to Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. Such premium rates shall be adjusted annually, or more often as may in the opinion of the commissioner be necessary.

The commissioner may by rule and regulation classify subscribers into groups or classes according to the nature of the hazards incident to the business thereof, and assign premium rates thereto. In addition, the commissioner may by rule and regulation prescribe procedures for subscription, payroll reporting, premium payment, termination of subscription, reinstatement and other matters pertinent to such subscribers’ continuing participation in the coal-workers’ pneumoconiosis fund.

§23-4B-7. Administration.

The coal-workers’ pneumoconiosis fund shall be administered by the state workmen’s compensation commissioner, who shall employ such employees as may be necessary to discharge his duties and responsibilities under this article. All payments of salaries and expenses of such employees and all expenses peculiar to the administration of this article shall be made by the state treasurer from the coal-workers’ pneumoconiosis fund upon requisitions signed by the commissioner.


No disbursements shall be made from the workmen’s compensation fund on account of any provision of this article: Provided, however, That the Legislature may at any time merge, consolidate, alter or liquidate this fund as it may determine and in no instance shall the operation of this article be construed as creating any contract which would deprive any injured employee of future benefits or increases awarded by an act of Congress, nor shall this section operate to create any liability upon the state of West Virginia.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

T. David Cherry
Chairman Senate Committee

Clarence L. Chisholm, Jr.
Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Howard W. Carson
Clerk of the Senate

W. B. Blankenship
Clerk of the House of Delegates

W. T. Grotstue, Jr.
President of the Senate

Lewis F. Kemper
Speaker House of Delegates

The within approved this the 24th day of April, 1973.

Arnold A. Barno, Jr.
Governor