WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1978

ENROLLED
Committee Substitute for
SENATE BILL NO. 426

(By Mr. Davis & Mr. Huffman)

PASSED March 11, 1978
In Effect July 1, 1978
AN ACT to amend and reenact sections one-c, five, six, six-a, eight-c, ten and sixteen, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section seven; to amend and reenact sections one and two, article four-a of said chapter; and to further amend said chapter, by adding thereto a new article, designated article five-a, all relating to workmen's compensation; providing for payment of medical benefits; payment of benefits after the first three days of disability; increasing maximum benefits; statutory amount of hearing loss; providing of benefits for occupational pneumoconiosis without pulmonary impairment; time for filing objections to findings and conclusions of the occupational pneumoconiosis board; increased age limits for certain dependents and providing for a lump sum payment to dependent's survivors; time limitation on filing for awards; providing for release of medical information to employers and their representatives; providing that children of disabled employees receiving benefits from the disabled workman's relief fund may receive such benefits to age twenty-three under certain circumstances; and prohibiting certain discriminatory practices.

Be it enacted by the Legislature of West Virginia:
That sections one-c, five, six, six-a, eight-c, ten and sixteen, article four, chapter twenty-three of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seven; that sections one and two, article four-a of said chapter be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article five-a, all to read as follows:

**ARTICLE 4. DISABILITY AND DEATH BENEFITS.**

§23-4-1c. Payment of temporary total disability benefits directly to claimant; payment of medical benefits; payments of benefits during protest; right of commissioner to collect payments improperly made.

Upon a finding by the commissioner that a claimant has sustained a compensable injury within the meaning of section one of this article, and upon proof by proper physician's report, or otherwise, that disability will last longer than three days as provided in section five of this article, the commissioner shall immediately commence payment of temporary total disability benefits to the claimant in the amounts provided for in sections six and fourteen of this article, and payment of the expenses provided for in subdivision (a), section three of this article relating to said injury without waiting for the expiration of the thirty-day period during which objections may be filed to such findings as provided in section one, article five of this chapter. The commissioner shall give immediate notice to the employer of his findings and of the commencement of such payments.

The commissioner shall determine whether or not the claimant has sustained a compensable injury within the meaning of section one of this article, and shall commence payment of temporary total disability benefits as provided herein within fifteen days of receipt of the employee's or employer's report of injury, whichever is received sooner, and receipt of either a proper physician's report or any other information necessary for a determination.

Upon receipt of the first report of injury in a claim, the commissioner shall request from the employer or employers any wage information necessary for determin-
ing the rate of benefits to which the employee is entitled.

If an employer does not furnish the commissioner with this information within fifteen days from the date the commissioner received the first report on injury in the case, the employee shall be paid total temporary disability benefits for lost time at the maximum rate. The commissioner shall adjust the rate prospectively upon receipt of proper information; however, notwithstanding any other provision of this section, the employer shall not be entitled to a credit or refund for previous overpayments caused by his failure to provide proper wage information. If the employee had more than one employer during the twelve months preceding the injury, any overpayment resulting from the provisions of this paragraph shall be charged only against the employer or employers who failed to supply wage information.

Upon a finding of the commissioner that a claimant, who has sustained a previous compensable injury which has been closed by an award of total temporary disability or permanent partial disability, suffers further temporary total disability or requires further medical or hospital treatment resulting from the compensable injury giving rise to the former award, the commissioner shall immediately commence payment of temporary total disability benefits to the claimant in the amounts provided for in sections six and fourteen of this article, and the expenses provided for in subdivision (a), section three of this article, relating to said disability, without waiting for the expiration of the thirty-day period during which objections may be filed to such findings as provided in section one, article five of this chapter. The commissioner shall give immediate notice to the employer of his findings and of the commencement of such payment.

Where the employer is a subscriber to the workmen’s compensation fund under the provisions of article three of this chapter, and upon the findings aforesaid, the commissioner shall mail all workmen’s compensation checks paying temporary total disability benefits directly to the claimant and not to the employer for delivery to the claimant.
Where the employer has elected to carry his own risk under section nine, article two of this chapter, and upon the findings aforesaid, the commissioner shall immediately issue a pay order directing the employer to pay such amounts as are due the claimant for temporary total disability benefits. A copy of the order shall be sent to the claimant. The self-insured employer shall commence such payments by mailing or delivering the payments directly to the employee within ten days of the date of the receipt of the pay order by the employer. If the self-insured employer believes that his employee is entitled to benefits, he may start payments before receiving a pay order from the commissioner.

In the event that an employer files a timely objection to any finding or order of the commissioner, as provided in section one, article five of this chapter, with respect to the payment or continued payment of temporary total disability benefits and those expenses as outlined in subdivision (a), section three of this article, as provided herein, the commissioner shall continue to pay to the claimant such benefits and expenses during the period of such disability unless it is subsequently found by the commissioner that the claimant was not entitled to receive the temporary total disability benefits and the expenses provided for in subdivision (a), section three of this article, or any part thereof, so paid, in which event the commissioner shall, where the employer is a subscriber to the fund, credit said employer's account with the amount of the overpayment; and, where the employer has elected to carry his own risk, the commissioner shall refund to such employer the amount of the overpayment. The amounts so credited to a subscriber or repaid to a self-insurer shall be charged by the commissioner to the surplus fund created by section one, article three of this chapter. If the final decision in any case determines that a claimant was not lawfully entitled to benefits paid to him pursuant to a prior decision, such amount of benefits so paid shall be deemed overpaid. The commissioner may 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,
110 any future benefits payable to the individual and credit
111 such amount against the overpayment until it is repaid
112 in full.

§23-4-5. Benefits for first three days after injury.
1 If the period of disability does not last longer than
2 three days from the day the employee leaves work as
3 the result of the injury, no award shall be allowed,
4 except the disbursements provided for in the two next
5 preceding sections, but if the period of disability lasts
6 longer than seven days from the day the employee
7 leaves work as a result of the injury, an award shall be
8 allowed for the first three days of such disability.

§23-4-6. Classification of disability benefits.
1 Where compensation is due an employee under the
2 provisions of this chapter for personal injury, such com-
3 pensation shall be as provided in the following sched-
4 ule:
5 (a) The expressions “average weekly wage earn-
6 ings, wherever earned, of the injured employee, at the
7 date of injury” and “average weekly wage in West
8 Virginia,” as used in this chapter, shall have the mean-
9 ing and shall be computed as set forth in section four-
10 teen of this article.
11 (b) If the injury causes temporary total disability,
12 the employee shall receive during the continuance
13 thereof weekly benefits as follows: A maximum weekly
14 benefit to be computed on the basis of seventy percent
15 of the average weekly earnings, wherever earned, of
16 the injured employee, at the date of injury, not to
17 exceed the percentage of the average weekly wage
18 in West Virginia, as follows: On or after July one,
19 one thousand nine hundred sixty-nine, forty-five per-
20 cent; on or after July one, one thousand nine hundred
21 seventy, fifty percent; on or after July one, one thou-
22 sand nine hundred seventy-one, fifty-five percent; on
23 or after July one, one thousand nine hundred seventy-
24 three, sixty percent; on or after July one, one thousand
25 nine hundred seventy-four, eighty percent; on or after
26 July one, one thousand nine hundred seventy-five,
27 one hundred percent.
The minimum weekly benefits paid hereunder shall not be less than twenty-six dollars per week for injuries occurring on or after July one, one thousand nine hundred sixty-nine; not less than thirty-five dollars per week for injuries occurring on or after July one, one thousand nine hundred seventy-one; not less than forty dollars per week for injuries occurring on or after July one, one thousand nine hundred seventy-three; not less than forty-five dollars per week for injuries occurring on or after July one, one thousand nine hundred seventy-four; and for injuries occurring on or after July one, one thousand nine hundred seventy-six, thirty-three and one-third percent of the average weekly wage in West Virginia.

(c) Subdivision (b) shall be limited as follows: Aggregate award for a single injury causing temporary disability shall be for a period not exceeding two hundred eight weeks.

(d) If the injury causes permanent total disability, benefits shall be payable during the remainder of life at the maximum or minimum weekly benefits as provided in subdivision (b) of this section for temporary total disability. A permanent disability of eighty-five percent or more shall be deemed a permanent total disability for the purpose of this section.

(e) If the injury causes permanent disability less than permanent total disability, the percentage of disability to total disability shall be determined and the award computed on the basis of four weeks' compensation for each percent of disability determined, at the following maximum or minimum benefit rates: Seventy percent of the average weekly earnings, wherever earned, of the injured employee, at the date of injury, not to exceed the percentage of the average weekly wage in West Virginia, as follows: On or after July one, one thousand nine hundred sixty-nine, forty-five percent; on or after July one, one thousand nine hundred seventy, fifty percent; on or after July one, one thousand nine hundred seventy-one, fifty-five percent; on or after July one, one thousand six hundred seventy-three, sixty percent; on or after July one, one thousand
nine hundred seventy-five, sixty-six and two-thirds percent.

The minimum weekly benefit under this subdivision shall be as provided in subdivision (b) of this section for temporary total disability.

(f) If the injury results in the total loss by severance of any of the members named in this subdivision, the percentage of disability shall be determined by the commissioner, with the following table establishing the minimum percentage of disability. In determining the percentage of disability, the commissioner may be guided by but shall not be limited to the disabilities enumerated in the following table, and in no event shall the disability be less than that specified in the following table:

- The loss of a great toe shall be considered a ten percent disability.
- The loss of a great toe (one phalanx) shall be considered a five percent disability.
- The loss of other toes shall be considered a four percent disability.
- The loss of other toes (one phalanx) shall be considered a two percent disability.
- The loss of all toes shall be considered a twenty-five percent disability.
- The loss of forepart of foot shall be considered a thirty percent disability.
- The loss of foot shall be considered a thirty-five percent disability.
- The loss of a leg shall be considered a forty-five percent disability.
- The loss of thigh shall be considered a fifty percent disability.
- The loss of thigh at hip joint shall be considered a sixty percent disability.
- The loss of a little or fourth finger (one phalanx) shall be considered a three percent disability.
- The loss of little or fourth finger shall be considered a five percent disability.
The loss of ring or third finger (one phalanx) shall be considered a three percent disability.

The loss of ring or third finger shall be considered a five percent disability.

The loss of middle or second finger (one phalanx) shall be considered a three percent disability.

The loss of middle or second finger shall be considered a seven percent disability.

The loss of index or first finger (one phalanx) shall be considered a six percent disability.

The loss of index or first finger shall be considered a ten percent disability.

The loss of thumb (one phalanx) shall be considered a twelve percent disability.

The loss of thumb shall be considered a twenty percent disability.

The loss of thumb and index finger shall be considered a thirty-two percent disability.

The loss of index and middle finger shall be considered a twenty percent disability.

The loss of middle and ring finger shall be considered a fifteen percent disability.

The loss of ring and little finger shall be considered a ten percent disability.

The loss of thumb, index and middle finger shall be considered a forty percent disability.

The loss of index, middle and ring finger shall be considered a thirty percent disability.

The loss of middle, ring and little finger shall be considered a twenty percent disability.

The loss of four fingers shall be considered a thirty-two percent disability.

The loss of hand shall be considered a fifty percent disability.

The loss of forearm shall be considered a fifty-five percent disability.

The loss of arm shall be considered a sixty percent disability.
The total and irrecoverable loss of the sight of one eye shall be considered a thirty-three percent disability. For the partial loss of vision in one, or both eyes, the percentages of disability shall be determined by the commissioner, using as a basis the total loss of one eye.

The total and irrecoverable loss of the hearing of one ear shall be considered a twenty-five percent disability. The total and irrecoverable loss of hearing of both ears shall be considered a sixty-five percent disability.

For the partial loss of hearing in one, or both ears, the percentage of disability shall be determined by the commissioner, using as a basis the total loss of hearing in both ears.

Should a claimant sustain a compensable injury which results in the total loss by severance of any of the bodily members named in this subdivision, die from sickness or noncompensable injury before the commissioner makes the proper award for such injury, the commissioner shall make such award to claimant's dependents as defined in this chapter, if any; such payment to be made in the same installments that would have been paid to claimant if living: Provided, That no payment shall be made to any widow of such claimant after her remarriage, and that this liability shall not accrue to the estate of such claimant and shall not be subject to any debts of, or charges against, such estate.

(g) Should a claimant to whom has been made a permanent partial award of from one percent to eighty-four percent, both inclusive, die from sickness or noncompensable injury, the unpaid balance of such award shall be paid to claimant's dependents as defined in this chapter, if any; such payment to be made in the same installments that would have been paid to claimant if living: Provided, That no payment shall be made to any widow of such claimant after her remarriage, and that this liability shall not accrue to the estate of such claimant and shall not be subject to any debts of, or charges against, such estate.

(h) For the purposes of this chapter, a finding of
the occupational pneumoconiosis board shall have the force and effect of an award.

(i) The award for permanent disabilities intermediate to those fixed by the foregoing schedule and permanent disability of from one percent to eighty-four percent shall be the same proportion and shall be computed and allowed by the commissioner.

(j) The percentage of all permanent disabilities other than those enumerated in subdivision (f) of this section shall be determined by the commissioner, and awards made in accordance with the provisions of subdivision (d) or (e) of this section. Where there has been an injury to a member as distinguished from total loss by severance of that member, the commissioner in determining the percentage of disability may be guided by but shall not be limited to the disabilities enumerated in subdivision (f) of this section.

(k) Compensation payable under any subdivision of this section shall not exceed the maximum nor be less than the weekly benefits specified in subdivision (b) of this section.

(l) Temporary total disability benefits payable under subdivision (b) of this section shall not be deductible from permanent partial disability awards payable under subdivision (e) or (f) of this section. Compensation, either total temporary or permanent partial, under this section shall be payable only to the injured employee and the right thereto shall not vest in his or her estate, except that any unpaid compensation which would have been paid or payable to the employee up to the time of his death, if he had lived, shall be paid to the dependents of such injured employee if there be such dependents at the time of death.

(m) The following permanent disabilities shall be conclusively presumed to be total in character:

   Loss of both eyes or the sight thereof.
   Loss of both hands or the use thereof.
   Loss of both feet or the use thereof.
   Loss of one hand and one foot or the use thereof.

In all other cases permanent disability shall be deter-
mined by the commissioner in accordance with the facts in the case, and award made in accordance with the provisions of subdivision (d) or (e).


(n) A disability which renders the injured employee unable to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time shall be considered in determining the issue of total disability.

§23-4-6a. Benefits and mode of payment to employees and dependents for occupational pneumoconiosis; further adjustment of claim for occupational pneumoconiosis.

1 If an employee is found to be permanently disabled due to occupational pneumoconiosis, as defined in section one of this article, the percentage of permanent disability shall be determined by the commissioner in accordance with the facts in the case and with the advice and recommendation of the occupational pneumoconiosis board. Compensation shall be paid therefor in the same manner and at the same rate as is provided for permanent disability under the provisions of subdivisions (d), (e), (g), (h), (i), (j), (k), (m) and (n) of the preceding section of this article: Provided, That if it shall be determined by the commissioner in accordance with the facts of the case and with the advice and recommendation of the occupational pneumoconiosis board that an employee has occupational pneumoconiosis, but without measurable pulmonary impairment therefrom, such employee shall be awarded and paid twenty weeks of benefits at the same benefit rate as herein above provided.

19 If the employee dies from occupational pneumoconiosis, the benefits shall be as provided for in section ten of this article; as to such benefits sections eleven to fourteen, inclusive, of this article shall apply.

23 In cases of permanent disability or death due to occupational pneumoconiosis, as defined in section one of this article, accompanied by active tuberculosis of the lungs, compensation shall be payable as for disability or death due to occupational pneumoconiosis alone.
The provisions of section sixteen, article four and sections one-a, one-b, one-c and one-d, article five of this chapter providing for the further adjustment of claims shall be applicable to the claim of any claimant who receives a permanent partial disability award for occupational pneumoconiosis.

§23-4-7. Release of medical information to employer; legislative findings; effect of application for benefits; duty of employer.

(a) The Legislature hereby finds and declares that two of the primary objectives of the workmen's compensation system established by this chapter are to provide benefits to an injured claimant promptly and to effectuate his return to work at the earliest possible time; that the prompt dissemination of medical information to the commissioner and employer as to diagnosis, treatment and recovery is essential if these two objectives are to be achieved; that claimants are increasingly burdened with the task of contacting their treating physicians to request the furnishing of detailed medical information to the commissioner and their employers; that the commissioner is increasingly burdened with the administrative responsibility of providing copies of medical reports to the employer involved, whereas in other states the employer can obtain the necessary medical information direct from the treating physician; that much litigation is occasioned in this state because of a lack of medical information having been received by the employer as to the continuing disability of a claimant; and that detailed narrative reports from the treating physician are often necessary in order for the commissioner, the claimant's representatives and the employer to evaluate a claim and determine whether additional or different treatment is indicated.

(b) In view of the foregoing findings, on and after the effective date of this section, a claimant shall irrevocably agree by the filing of his application for benefits that any physician may release, to the claimant's employer or its representative, from time to time to such claimant's employer medical reports containing detailed information as to the claimant's condition, treatment, prognosis and
anticipated period of disability and dates as to when
the claimant will reach or has reached his maximum de-
gree of improvement or will be or was released to return
to work. Whenever a copy of any such medical report is
obtained by the employer or their representative and the
physician has not also forwarded a copy of the same to
the commissioner, the employer shall forward a copy of
such medical report to the commissioner within ten days
from the date such employer received the same from
such physician.

§23-4-8c. Occupational pneumoconiosis board—Reports and
distribution thereof; presumption; findings re-
quired of board; objection to findings; procedure
thereon.

1. (a) The occupational pneumoconiosis board, as soon
as practicable, after it has completed its investigation,
shall make its written report, to the commissioner, of its
findings and conclusions on every medical question in
controversy, and the commissioner shall send one copy
thereof to the employee or claimant and one copy to the
employer, and the board shall also return to and file
with the commissioner all the evidence as well as all
statements under oath, if any, of the persons who ap-
pear before it on behalf of the employee or claimant,
or employer and also all medical reports and x ray
examinations produced by or on behalf of the employee
or claimant, or employer.

(b) If it can be shown that the claimant or deceased
employee has been exposed to the hazard of inhaling
minute particles of dust in the course of and resulting
from his employment for a period of ten years during
the fifteen years immediately preceding the date of his
last exposure to such hazard and that such claimant or
deceased employee has sustained a chronic respiratory
disability, then it shall be presumed that such claimant
is suffering or such deceased employee was suffering at
time of his death from occupational pneumoconiosis
which arose out of and in the course of his employment.
This presumption shall not be conclusive.
(c) The findings and conclusions of the board shall set forth, among other things, the following:

1. Whether or not the claimant or the deceased employee has contracted occupational pneumoconiosis, and, if so, the percentage of permanent disability resulting therefrom.

2. Whether or not the exposure in the employment was sufficient to have caused the claimant's or deceased employee's occupational pneumoconiosis or to have perceptibly aggravated an existing occupational pneumoconiosis, or other occupational disease.

3. What, if any, physician appeared before the board on behalf of the claimant or employer, and what, if any, medical evidence was produced by or on behalf of the claimant or employer.

If either party objects to the whole or any part of such findings and conclusions of the board, he shall file with the commissioner, within fifteen days from receipt of such copy to him, unless for good cause shown, the commissioner extends such time, his objections thereto in writing, specifying the particular statements of the board's findings and conclusions to which he objects. After the time has expired for the filing of objections to the findings and conclusions of the board, the commissioner shall proceed to act as provided in this chapter.

If after the time has expired for the filing of objections to the findings and conclusions of the board no objections have been filed, the report of a majority of the board of its findings and conclusions on any medical question shall be taken to be plenary and conclusive evidence of the findings and conclusions therein stated. If objection has been filed to the findings and conclusions of the board, notice thereof shall be given to the board, and the members thereof joining in such findings and conclusions shall appear at the time fixed by the commissioner for the hearing to submit to examination and cross-examination in respect to such findings and conclusions. At such hearing evidence to support or controvert the findings and conclusions of the board shall be limited to examination and cross-examination of the
members of the board, and to the taking of testimony of
other qualified physicians and roentgenologists.

§23-4-10. Classification of death benefits; "dependent" defined.
1 In case a personal injury, other than occupational
pneumoconiosis or other occupational disease, suffered
by an employee in the course of and resulting from his
employment, causes death and disability is continuous
from date of such injury until date of death, or if death
results from occupational pneumoconiosis or from any
other occupational disease, the benefits shall be in the
amounts and to the persons as follows:
2 (a) If there be no dependents, the disbursements
shall be limited to the expense provided for in sections
three and four of this article.
3 (b) If there be dependents as defined in subdivision
(d) of this section, such dependents shall be paid for
as long as their dependency shall continue in the same
amount as was paid or would have been paid the de-
ceased employee for total disability had he lived. The
order of preference of payment and length of depen-
dence shall be as follows:
4 (1) A dependent widow or widower until death or
remarriage of such widow or widower, and any child
or children dependent upon the decedent until each
such child shall reach eighteen years of age or where
such child after reaching eighteen years of age continues
as a full-time student in an accredited high school, col-
lege, university, business or trade school, until such
child reaches the age of twenty-five years or if an
invalid child to continue as long as such child remains
an invalid. All such persons shall be jointly entitled to
the amount of benefits payable as a result of employee's
death.
5 (2) A wholly dependent father or mother until death.
6 (3) Any other wholly dependent person for a period
of six years after the death of the deceased employee.
7 (c) If the deceased employee leaves no wholly de-
pendent person, but there are partially dependent per-
sons at the time of death, the payment shall be fifty
dollars a month, to continue for such portion of the
period of six years after the death, as the commissioner may determine, but no such partially dependent person shall receive compensation payments as a result of the death of more than one employee.

Compensation under subdivisions (b) and (c) hereof shall, except as may be specifically provided to the contrary therein, cease upon the death of the dependent, and the right thereto shall not vest in his or her estate.

(d) Dependent, as used in this chapter, shall mean a widow, widower, child under eighteen years of age, or under twenty-five years of age when a full-time student as provided herein, invalid child or posthumous child, who, at the time of the injury causing death, is dependent in whole or part for his or her support upon the earnings of the employee, stepchild under eighteen years of age, or under twenty-five years of age when a full-time student as provided herein, child under eighteen years of age legally adopted prior to the injury causing death, or under twenty-five years of age when a full-time student as provided herein, father, mother, grandfather or grandmother, who at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee; and invalid brother or sister wholly dependent for his or her support upon the earnings of the employee at the time of the injury causing death.

(e) If a person receiving permanent total disability benefits dies from a cause other than a disabling injury leaving any dependents as defined in subdivision (d) of this section, a lump sum payment shall be made to such dependents in an amount equal to one hundred four times the weekly benefit the worker was receiving at the time of his death.
4 modifications or changes with respect to former findings or
5 orders as may be justified: Provided, That no further
6 award may be made in fatal cases arising after March
7 seventh, one thousand nine hundred twenty-nine, except
8 within two years after the death of the employee, or in
9 case of nonfatal injuries, on and after March seventh,
10 one thousand nine hundred twenty-nine, except within
11 five years after payments for temporary disability shall
12 have ceased or not more than two times within five years
13 after the commissioner shall have made the last payment
14 in the original award or any subsequent increase thereto
15 in any permanent disability case: Provided, however,
16 That no such modification or change may be made in
17 any case in which no award has been made, except within
18 five years after the date of injury: Provided further, That
19 a further award may be made for medical benefits only
20 at any time. In any case in which an injured employee
21 shall make application for a further adjustment of his
22 claim, if such application be in writing and filed within
23 the applicable time limit as prescribed herein, the com-
24 missioner shall pass upon and determine the merits of
25 such application within thirty days after the filing
26 thereof.
27 If such application is based on a report of any medical
28 examination made of the claimant and submitted by the
29 claimant to the commissioner in support of his applica-
30 tion, and the claim is opened for further consideration
31 and additional award is later made, the claimant shall
32 be reimbursed for the expenses of such examination.
33 Such reimbursement shall be made by the commissioner
34 to the claimant, in addition to all other benefits awarded,
35 upon due proof of the amount thereof being furnished
36 the commissioner by the claimant, but shall in no case
37 exceed the sum of one hundred dollars.

ARTICLE 4A. DISABLED WORKMEN'S RELIEF FUND.
§22-4A-1. Disabled workmen's relief fund created.
1 For the relief of persons who are receiving benefits
2 pursuant to a permanent total disability award in
3 amounts less than two hundred seventy-four dollars
4 per month, and for the relief of widows who are re-
ceiving benefits on account of the death of an employee
in amounts less than two hundred sixty dollars per
month, and for the relief of children of employees de-
ceased before one thousand nine hundred sixty-seven
who are under the age of twenty-three and who are
full-time students, and for the relief of other persons
who are receiving dependents' benefits on account of
the death of an employee in amounts less than the
specific monetary amounts set forth in section ten,
article four of this chapter and in effect as of July one,
one thousand nine hundred seventy-three, there is hereby
created a separate fund to be known as the "Disabled
Workmen's Relief Fund," which fund shall consist of
such sums as are from time to time made available to
carry out the objects and purposes of this article. Said
fund shall be in the custody of the state treasurer and
disbursements therefrom shall be made upon requisition
signed by the commissioner to those persons entitled to
participate therein and in such amounts to each par-
ticipant as is provided in section three of this article.

§23-4A-2. To whom benefits paid.
1 In order to participate in the disabled workmen's
relief fund, an individual must be receiving workmen's
compensation benefits by virtue of and under the laws
of this state in amounts less than those set forth in
section one of this article, and be receiving such benefits
under a permanent total disability award or be receiving
such benefits because of the death of an employee: Pro-
vided, That a child of an employee deceased before the
first day of July, one thousand nine hundred sixty-seven,
who is under the age of twenty-three and is a full-time
student, and, who, at the time of injury causing death,
was dependent in whole or part upon the earnings of
the deceased employee, shall be eligible for benefits
payable from the fund established by this article in the
same manner and amount as if death had occurred after
the first day of July, one thousand nine hundred sixty-
seven.
ARTICLE 5A. DISCRIMINATORY PRACTICES.
1 No employer shall discriminate in any manner against
2 any of his present or former employees because of such
3 present or former employee's receipt of or attempt to
4 receive benefits under this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James P. Davis
Chairman Senate Committee

Clarence E. Colston
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1978.

J. William P. Gilliam
Clerk of the Senate

C.A. Blankenship
Clerk of the House of Delegates

W.I. Battle, Jr.
President of the Senate

Donald L. Zopp
Speaker House of Delegates

The within ________ is approved this the ______ day of ________, 1978.

John D. Bulkeley
Governor