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1991 APR -3 AM 11: 13

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991



ENROLLED

SENATE BILL NO. 187

(By Senator Chafin)



PASSED March 9, 1991

In Effect from Passage

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Senate Bill No. 187
(BY SENATOR CHAFIN)

[Passed March 9, 1991; in effect from passage.]

AN ACT to amend and reenact sections one, one-a, one-b, two, five, nine and thirteen, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three, article five of said chapter; and to further amend said article by adding thereto a new section, designated section one-j, relating to providing workers' compensation coverage for certain corporate or associational officers, partners, and owners of sole proprietorships as employees; eliminating the restriction to only corporate employers who wish to temporarily come into the state but who choose to subscribe to the workers' compensation fund; elections to forgo such coverages; exemptions to such elections for certain officers engaged in dual capacities for the employer; notices to be given to the commissioner of such elections; providing elective workers' compensation coverage for elected officials; methods of calculation of premiums for executive officers, partners, and sole owners both for for-profit entities and for not-for-profit entities; methods of calculation of premiums for elected officials; definitions; furnishing of confidential information to the division of workers' compensation by the state tax commissioner and by the division of unemployment compensation; specifying the types of infor-

mation that may be so furnished; authorizing the commissioner to encourage employers to engage in loss prevention programs, programs for maintaining a safe workplace, and wellness programs; changing the types of penalties that may be imposed upon defaulted or terminated employers; forbidding the waiver of penalties and interest on delinquent premiums and premium deposits; establishing a system and method for penalty premium rate of one hundred ten percent of base or modified premiums, whichever is higher, under certain circumstances of default and termination; providing for reinstatement agreements and conditions thereon; providing for requirements on employers entering into reinstatement agreements to abide by the conditions thereof and to maintain their accounts in good standing; clarifying that the commissioner may file a lien against an employer despite the filing of an application for reinstatement or the entering into of a reinstatement agreement; providing for requirements that employers filing applications for reinstatement keep their accounts in good standing and the consequences for failures to do so; providing for the method of determining the premium rates for subscribers to the second injury fund and the factors to be used in doing so; clarifying that the commissioner may require a premium deposit from self-insured employers; allowing the commissioner to limit the modifications of such second injury fund premiums based upon the employer's experience in using the second injury fund; making clear the intention of the Legislature regarding the respective responsibilities of the employer and the second injury fund for the payment of charges related to the last injury leading to a second injury life award; relating to the application of a rate of interest of eighteen percent upon past due premium and premium deposit; compounding of such rate of interest except for interest to be charged under a reinstatement agreement; relating to procedures before the office of chief administrative law judge with regard to certain requests for permanent total disability awards or for second injury life awards including remands to the commissioner for initial decisions, staying the protests then under

consideration, continuing in effect the decision protested during the remand proceedings, and for resumption of action by the office of chief administrative law judge following the commissioner's decision on remand; removing the requirement that the appeal board make findings of fact and conclusions of law in certain cases; and making other reconciling changes.

Be it enacted by the Legislature of West Virginia:

That sections one, one-a, one-b, two, five, nine and thirteen, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three, article five of said chapter be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section one-j, all to read as follows:

**ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER;
EXTRATERRITORIAL COVERAGE.**

**§23-2-1. Employers subject to chapter; elections not to
provide certain coverages; notices; filing of
business registration certificates.**

1 (a) The state of West Virginia and all governmental
2 agencies or departments created by it, including
3 county boards of education, political subdivisions of
4 the state, any volunteer fire department or company
5 and other emergency service organizations as defined
6 by article five, chapter fifteen of this Code, and all
7 persons, firms, associations and corporations regularly
8 employing another person or persons for the purpose
9 of carrying on any form of industry, service or
10 business in this state, are employers within the
11 meaning of this chapter and are hereby required to
12 subscribe to and pay premiums into the workers'
13 compensation fund for the protection of their
14 employees and shall be subject to all requirements of
15 this chapter and all rules and regulations prescribed
16 by the commissioner with reference to rate, classifica-
17 tion and premium payment: *Provided*, That such rates
18 will be adjusted by the commissioner to reflect the
19 demand on the compensation fund by the covered
20 employer.

21 (b) The following employers are not required to
22 subscribe to the fund, but may elect to do so:

23 (1) Employers of employees in domestic services; or

24 (2) Employers of five or fewer full-time employees
25 in agricultural service; or

26 (3) Employers of employees while said employees
27 are employed without the state except in cases of
28 temporary employment without the state; or

29 (4) Casual employers. An employer is deemed to be
30 a casual employer when the number of his employees
31 does not exceed three and the period of employment
32 is temporary, intermittent and sporadic in nature and
33 does not exceed ten calendar days in any calendar
34 quarter; or

35 (5) Churches; or

36 (6) Employers engaged in organized professional
37 sports activities, including employers of trainers and
38 jockeys engaged in thoroughbred horse racing.

39 (c) Notwithstanding any other provision of this
40 chapter to the contrary, whenever there are churches
41 in a circuit which employ one individual clergyman
42 and the payments to such clergyman from such
43 churches constitute his full salary, such circuit or
44 group of churches may elect to be considered a single
45 employer for the purpose of premium payment into
46 the workers' compensation fund.

47 (d) Employers who are not required to subscribe to
48 the workers' compensation fund may voluntarily
49 choose to subscribe to and pay premiums into the fund
50 for the protection of their employees and in such case
51 shall be subject to all requirements of this chapter and
52 all rules and regulations prescribed by the commis-
53 sioner with reference to rates, classifications and
54 premium payments and shall afford to them the
55 protection of this chapter, including section six of this
56 article, but the failure of such employers to choose to
57 subscribe to and to pay premiums into the fund shall
58 not impose any liability upon them other than such

59 liability as would exist notwithstanding the provisions
60 of this chapter.

61 (e) Any foreign corporation employer whose
62 employment in this state is to be for a definite or
63 limited period which could not be considered "regu-
64 larly employing" within the meaning of this section
65 may choose to pay into the workers' compensation
66 fund the premiums herein provided for, and at the
67 time of making application to the commissioner, such
68 employer shall furnish a statement under oath show-
69 ing the probable length of time the employment will
70 continue in this state, the character of the work, an
71 estimate of the monthly payroll and any other infor-
72 mation which may be required by the commissioner.
73 At the time of making application such employer shall
74 deposit with the state compensation commissioner to
75 the credit of the workers' compensation fund the
76 amount required by section five of this article, which
77 amount shall be returned to the employer if his
78 application be rejected by the commissioner. Upon
79 notice to such employer of the acceptance of his
80 application by the commissioner, he shall be an
81 employer within the meaning of this chapter and
82 subject to all of its provisions.

83 (f) Any foreign corporation employer choosing to
84 comply with the provisions of this chapter and to
85 receive the benefits hereunder shall, at the time of
86 making application to the commissioner, in addition to
87 other requirements of this chapter, furnish such
88 commissioner with a certificate from the secretary of
89 state, where such certificate is necessary, showing that
90 it has complied with all the requirements necessary to
91 enable it legally to do business in this state and no
92 application of such foreign corporation employer shall
93 be accepted by the commissioner until such certificate
94 is filed.

95 (g) The following employers may elect not to provide
96 coverage to certain of their employees under the
97 provisions of this chapter:

98 (1) Employers of employees who are officers of and

99 stockholders in a corporation qualifying for special tax
100 treatment under subchapter S of the Internal Revenue
101 Code of the United States may elect not to provide
102 coverage to such employees; or

103 (2) If an employer is a partnership, sole proprietor-
104 ship, association, or corporation, such employer may
105 elect not to include as an "employee" within this
106 chapter, any member of such partnership, the owner
107 of the sole proprietorship, or any corporate officer or
108 member of the board of directors of the association or
109 corporation. The officers of a corporation or an
110 association shall consist of a president, a vice-
111 president, a secretary, and a treasurer, each of whom
112 shall be elected by the board of directors at such time
113 and in such manner as may be prescribed by the
114 bylaws. Such other officers and assistant officer as
115 may be deemed necessary may be elected or appointed
116 by the board of directors or chosen in such other
117 manner as may be prescribed by the bylaws and, if so
118 elected, appointed, or chosen, such employer may elect
119 not to include any such officer or assistant officer as
120 an "employee" within the meaning of this chapter:
121 *Provided*, That except for those persons who are
122 members of the board of directors or who are the
123 corporation's or association's president, vice-president,
124 secretary, and treasurer and who may be excluded by
125 reason of their aforementioned positions from the
126 benefits of this chapter even though their duties,
127 responsibilities, activities, or actions may have a dual
128 capacity of work which is ordinarily performed by an
129 officer and also of work which is ordinarily performed
130 by a worker, an administrator, or an employee who is
131 not an officer, no such other officer or assistant officer
132 who is elected or appointed shall be excluded by
133 election from coverage or be denied the benefits of
134 this chapter merely because he or she is such an
135 officer or assistant officer if, as a matter of fact:

136 (A) He or she is engaged in a dual capacity of having
137 the duties and responsibilities for work ordinarily
138 performed by an officer and also having duties and
139 work ordinarily performed by a worker, administra-

140 tor, or employee who is not an officer;

141 (B) He or she is engaged ordinarily in performing
142 the duties of a worker, an administrator, or an
143 employee who is not an officer and receives pay
144 therefore in the capacity of an employee; or

145 (C) If he or she is engaged in an employment
146 palpably separate and distinct from his or her official
147 duties as an officer of the association or corporation.

148 (h) In the event of election under subsection (g) of
149 this section, the employer shall serve upon the com-
150 missioner written notice naming the positions not to
151 be covered and shall not include such "employee's"
152 remuneration for premium purposes in all future
153 payroll reports, and such partner, proprietor or
154 corporate or executive officer shall not be deemed an
155 employee within the meaning of this chapter after
156 such notice has been served.

§23-2-1a. Employees subject to chapter.

1 (a) Employees subject to this chapter are all persons
2 in the service of employers and employed by them for
3 the purpose of carrying on the industry, business,
4 service or work in which they are engaged, including,
5 but not limited to:

6 (1) Persons regularly employed in the state whose
7 duties necessitate employment of a temporary or
8 transitory nature by the same employer without the
9 state;

10 (2) Every person in the service of the state or of any
11 political subdivision or agency thereof, under any
12 contract of hire, express or implied, and every
13 appointed official or officer thereof while performing
14 his or her official duties;

15 (3) Checkweighmen employed according to law;

16 (4) All members of rescue teams assisting in mine
17 accidents with the consent of the owner who, in such
18 case, shall be deemed the employer, or at the direction
19 of the director of the department of mines; and

20 (5) All forest fire fighters who, under the supervi-
21 sion of the director of the department of natural
22 resources or his or her designated representative,
23 assist in the prevention, confinement and suppression
24 of any forest fire.

25 (b) The right to receive compensation under this
26 chapter shall not be affected by the fact that a minor
27 is employed or is permitted to be employed in viola-
28 tion of the laws of this state relating to the employ-
29 ment of minors, or that he or she obtained his or her
30 employment by misrepresenting his or her age.

§23-2-1b. Special provisions as to premiums.

1 (a) Except as provided for in subsection (b) of this
2 section, every executive officer of an association or of
3 a corporation, any member of a partnership or owner
4 of a sole proprietorship which has not elected to forgo
5 coverage under this chapter for such officer, member
6 or owner shall pay premiums based upon the actual
7 salary paid to such employee up to an amount suffi-
8 cient to qualify such employee to receive the maxi-
9 mum level of benefits, but in no event shall the basis
10 for premium be less than the salary necessary to
11 provide such employee with the minimum level of
12 benefits.

13 (b) Every executive officer of a not-for-profit associ-
14 ation or of a not-for-profit corporation which has not
15 elected to forgo coverage under this chapter for such
16 officer, member or owner shall pay premiums based
17 upon the actual salary paid to such employee up to an
18 amount sufficient to qualify such employee to receive
19 the maximum level of benefits, but in no event shall
20 the basis for premium be less than one hundred
21 dollars.

22 (c) Every elected official or officer, whether full
23 time or part time and including members of the
24 Legislature, whose governmental entity elects cover-
25 age under this chapter for such elected official or
26 officer, shall pay or have paid for him or her premi-
27 ums based upon the actual salary paid to such elected
28 official or officer up to an amount sufficient to qualify

29 such elected official or officer to receive the maximum
30 level of benefits, but in no event shall the basis for
31 premium be less than the salary necessary to provide
32 such elected official or officer with the minimum level
33 of benefits. For the purposes of this subsection, an
34 elected official or officer shall include a person
35 appointed to an elected position to complete a term for
36 that elected position.

37 (d) The premium and actual expenses in connection
38 with governmental agencies and departments of the
39 state of West Virginia shall be paid out of the state
40 treasury from appropriations made for such agencies
41 and departments, in the same manner as other disbur-
42 sements are made by such agencies and departments.

43 (e) County commissions, municipalities, other polit-
44 ical subdivisions of the state, county boards of educa-
45 tion, emergency service organizations organized as
46 aforesaid and volunteer fire departments or companies
47 shall provide for the funds to pay their prescribed
48 premiums into the fund and such premiums and
49 premiums of state agencies and departments, includ-
50 ing county boards of education, shall be paid into the
51 fund in the same manner as herein provided for other
52 employers subject to this chapter.

53 (f) County commissions and municipalities are
54 hereby authorized to pay all or any part of the
55 premiums prescribed for such emergency service
56 organizations organized as aforesaid and such duly
57 incorporated volunteer fire departments or companies
58 as may provide services within the county or
59 municipality.

**§23-2-2. Commissioner to be furnished information by
employers, state tax commissioner and divi-
sion of unemployment compensation; secrecy
of information; examination of employers,
etc.; violation a misdemeanor.**

1 (a) Every employer shall furnish the commissioner,
2 upon request, all information required by him or her
3 to carry out the purposes of this chapter. The commis-
4 sioner, or any person employed by the commissioner

5 for that purpose, shall have the right to examine
6 under oath any employer or officer, agent or employee
7 of any employer.

8 (b) Notwithstanding the provisions of any other
9 statute, specifically, but not exclusively, section five
10 and five-b, article ten, chapter eleven of this code, and
11 section eleven, article ten, chapter twenty-one-a of this
12 code the commissioner of the bureau of employment
13 programs may receive the following information:

14 (1) Upon written request to the state tax commis-
15 sioner: The names, addresses, places of business and
16 other identifying information of all businesses receiv-
17 ing a business franchise registration certificate and the
18 dates thereof; and, the names and social security
19 numbers or other tax identification numbers of the
20 businesses and of the businesses' workers and
21 employees, if otherwise collected, and the quarterly
22 and annual gross wages or other compensation paid to
23 the workers and employees of such businesses
24 reported pursuant to the requirement of withholding
25 of tax on income.

26 (2) Upon written application to the division of
27 unemployment compensation: In addition to the
28 information that may be released to the division of
29 workers' compensation for the purposes of this chapter
30 under the provisions of chapter twenty-one-a of this
31 code, the names, addresses and other identifying
32 information of all employing units filing reports and
33 information pursuant to section eleven, article ten,
34 chapter twenty-one-a of this code as well as informa-
35 tion contained in those reports regarding the number
36 and names, addresses, and social security numbers of
37 employees employed and the gross quarterly wages
38 paid by each employing unit to each identified
39 employee.

40 (c) All information acquired by the division of
41 workers' compensation pursuant to subsection (b) of
42 this section shall be used only for auditing premium
43 payments and registering businesses under the single
44 point of registration program as defined in section two,

45 article one, chapter eleven of this code. The division of
46 workers' compensation, upon receiving the business
47 franchise registration certificate information made
48 available pursuant to subsection (b) of this section,
49 shall contact all businesses receiving a business
50 franchise registration certificate and provide all
51 necessary forms to register the business under the
52 provisions of this article. Any officer or employee of
53 this state who uses the aforementioned information in
54 any manner other than the one stated herein or
55 elsewhere authorized in this code, or who divulges or
56 makes known in any manner any of the aforementi-
57 oned information shall be guilty of a misdemeanor,
58 and, upon conviction thereof, shall be fined not more
59 than one thousand dollars or imprisoned in the county
60 jail for not more than one year, or both, together with
61 cost of prosecution.

62 (d) Reasonable costs of compilation and production
63 of any information made available pursuant to subsec-
64 tion (b) of this section shall be charged to the division
65 of workers' compensation.

66 (e) Information acquired by the commissioner
67 pursuant to subsection (b) of this section shall not be
68 subject to disclosure under the provisions of chapter
69 twenty-nine-b of this code.

**§23-2-5. Application; payment of premiums; payroll report;
premiums; deposits; delinquency; default;
reinstatement; payment of benefits; notice to
employees; criminal provisions; penalties.**

1 (a) For the purpose of creating a workers' compen-
2 sation fund each employer who is required to sub-
3 scribe to the fund or who elects to subscribe to the
4 fund, shall pay premiums calculated as a percentage of
5 the employer's payroll at the rate determined by the
6 commissioner and then in effect. At the time each
7 employer subscribes to the fund, the application
8 required by the commissioner shall be filed and a
9 premium deposit equal to the first quarter's estimated
10 premium payment shall be remitted. The minimum
11 quarterly premium to be paid by any employers shall

12 be ten dollars.

13 (1) Thereafter, premiums shall be paid quarterly on
14 or before the last day of the month following the end
15 of the quarter, and shall be the prescribed percentage
16 of the total earnings of all employees during the
17 preceding quarter.

18 (2) At the time each premium is paid, every sub-
19 scribing employer shall make a payroll report to the
20 commissioner for the preceding quarter. The report
21 shall be on the form or forms prescribed by the
22 commissioner, and shall contain all information
23 required by the commissioner.

24 (3) After subscribing to the fund, each employer
25 shall remit with each payroll report and premium
26 payment, an amount calculated to be sufficient to
27 maintain a premium deposit equal to the previous
28 quarter's premium payment: *Provided*, That the
29 commissioner may reduce the amount of the premium
30 deposit required from seasonal employers for those
31 quarters during which employment is significantly
32 reduced. The premium deposit shall be credited to the
33 employer's account on the books of the commissioner
34 and used to pay premiums and any other sums due
35 the fund when an employer becomes delinquent.

36 (4) All premiums and premium deposits required to
37 be paid by this chapter shall be paid by the employers
38 to the workers' compensation commissioner, who shall
39 maintain record of all sums so received. On and after
40 the first day of October, one thousand nine hundred
41 ninety-one, any such sum mailed to the commissioner
42 shall be deemed to be received on the date the
43 envelope transmitting it is postmarked by the United
44 States postal service. All sums received by the com-
45 missioner shall be deposited in the state treasury to
46 the credit of the workers' compensation fund in the
47 manner now prescribed by law.

48 (5) The commissioner may encourage employer
49 efforts to create and maintain safe workplaces, to
50 encourage loss prevention programs, and to encourage
51 employer provided wellness programs, through the

52 normal operation of the experience rating formula,
53 seminars and other public presentations, the develop-
54 ment of model safety programs and other initiatives as
55 may be determined by the commissioner.

56 (b) Failure of an employer to timely pay premium,
57 to timely file a payroll report, or to maintain an
58 adequate premium deposit, shall cause the employer's
59 account to become delinquent. No employer will be
60 declared delinquent or be assessed any penalty there-
61 for if the commissioner determines that such delin-
62 quency has been caused by delays in the administra-
63 tion of the fund. The commissioner shall, in writing,
64 within sixty days of the end of each quarter notify all
65 delinquent employers of their failure to timely pay
66 premiums, to timely file a payroll report, or to
67 maintain an adequate premium deposit. The notifica-
68 tion shall demand the filing of the delinquent payroll
69 report and payment of delinquent premiums, and/or
70 payment of an amount sufficient to maintain the
71 premium deposit, before the end of the third month
72 following the end of the preceding quarter. The
73 notification shall also require payment of interest on
74 the delinquent premium payment and/or premium
75 deposit pursuant to section thirteen of this article.

76 (c) Whenever the commissioner notifies an employer
77 of the delinquent status of his or her account, the
78 notification shall explain the legal consequence of
79 subsequent default by employers required to subscribe
80 to the fund, and the effects of termination of any
81 electing employer's account.

82 (d) Failure by the employer, who is required to
83 subscribe to the fund and who fails to resolve his or
84 her delinquency within the prescribed period, shall
85 place the account in default and shall deprive such
86 defaulting employer of the benefits and protection
87 afforded by this chapter including section six of this
88 article, and he or she shall be liable as provided in
89 section eight of this article. The defaulting employer's
90 liability under section eight of this article shall be
91 retroactive to twelve o'clock p.m., of the last day of the
92 month following the end of the quarter for which the

93 delinquency occurs. The commissioner shall notify the
94 defaulting employer of the method by which the
95 employer may be reinstated with the fund. The
96 commissioner shall also notify the employees of such
97 employer by written notice as hereinafter provided for
98 in this section.

99 (e) Failure by any employer, who voluntarily elects
100 to subscribe, to resolve his or her delinquency within
101 the prescribed period, shall automatically terminate
102 the election of such employer to pay into the workers'
103 compensation fund and shall deprive such delinquent
104 employer of the benefits and protection afforded by
105 this chapter including section six of this article, and he
106 or she shall be liable as provided in section eight of
107 this article. The defaulting employer's liability under
108 section eight of this article shall be retroactive to
109 twelve o'clock p.m., of the last day of the month
110 following the end of the quarter for which the delin-
111 quency occurs.

112 (f) (1) Except as provided for in subdivision three of
113 this subsection, any employer who is required to
114 subscribe to the fund and who is in default on the
115 effective date of this section or who subsequently
116 defaults, and any employer who has elected to sub-
117 scribe to the fund and whose account is terminated
118 prior to the effective date of this section or whose
119 account is subsequently terminated, shall be restored
120 immediately to the benefits and protection of this
121 chapter only upon the filing of all delinquent payroll
122 and other reports required by the commissioner and
123 payment into the fund of all unpaid premiums, an
124 adequate premium deposit, and accrued interest.
125 Interest shall be calculated as provided for by section
126 thirteen of this article. In addition, for every defaulted
127 or terminated employer whose default or termination
128 lasts longer than two quarters or who has defaulted or
129 been terminated for more than two quarters out of the
130 preceding eight consecutive quarters, then upon any
131 such employer's restoration to the benefits and protec-
132 tion of this chapter, for the next eight quarters,
133 including the quarter in which such restoration

134 occurs, the employer shall pay premiums to the
135 commissioner at a penalty rate. The applicable penalty
136 premium rate shall be determined by first calculating
137 the employer's premium under the provisions of
138 section four of this article, but including any applica-
139 ble experience modification, and then multiplying that
140 premium by one hundred and ten percent.

141 The commissioner shall not have the authority to
142 waive either accrued interest or the imposition of the
143 penalty premium rate. Any employer whose default or
144 termination does not last longer than two quarters or
145 who has not defaulted in more than two quarters out
146 of the preceding eight consecutive quarters shall not
147 have a penalty premium rate imposed. The provisions
148 of section seventeen of this article apply to any action
149 or decision of the commissioner under this section. For
150 purposes of section four of this article, the extra ten
151 percent of premium constituting the penalty shall not
152 be used in determining any entitlement to experience
153 modification of the employer's premium rate for
154 future years.

155 (2) The commissioner shall have the authority to
156 restore a defaulted or terminated employer under a
157 reinstatement agreement. Such reinstatement agree-
158 ment shall require the payment in full of all premi-
159 ums, premium deposits, past accrued interest, and
160 future interest calculated pursuant to the provisions of
161 section thirteen of this article. The reinstatement
162 agreement shall not permit any modification or waiver
163 of the penalty premium rate provided for in subdivi-
164 sion (1) of this subsection. Notwithstanding the filing
165 of a reinstatement application or the entering into of
166 a reinstatement agreement, the commissioner is
167 authorized to file a lien against the employer as
168 provided for by section five-a of this article. Applica-
169 tions for reinstatement shall: (A) Be made upon forms
170 prescribed by the commissioner; (B) include a report
171 of the gross payroll of the employer during the entire
172 period of delinquency and default, which payroll
173 information shall be verified by the employer or its
174 authorized agent; and (C) include a payment equal to

175 one half of one percent of the gross payroll during the
176 period of delinquency and default but not to exceed
177 the amount of the entire liability due and owing for
178 the period of delinquency and default, or one hundred
179 dollars, whichever amount shall be greater. An
180 employer who applies for reinstatement shall be
181 entitled to the benefits and protection of this chapter
182 on the day the application is received by the commis-
183 sioner: *Provided*, That if the commissioner reinstates
184 an employer subject to the terms of a repayment
185 agreement, the subsequent failure of the employer to
186 make scheduled payments or to pay accrued or future
187 interest in accordance with the repayment agreement
188 or to timely file current premiums or to otherwise
189 maintain its account in good standing or, if the
190 repayment agreement does not require earlier restora-
191 tion of the premium deposit, to restore the premium
192 deposit to the required amount by the end of the
193 repayment period shall cause the repayment agree-
194 ment to be null, void and of no effect, and the
195 employer shall be denied the benefits and protection
196 of this chapter effective from the date that such
197 employer's account originally became delinquent.

198 (3) Any employer who fails to maintain his or her
199 account in good standing with regard to subsequent
200 premiums and premium deposits prior to the final
201 resolution of an application for reinstatement as
202 provided for in division one of this subsection shall
203 cause the reinstatement application to be null, void
204 and of no effect, and the employer shall be denied the
205 benefits and protection of this chapter effective from
206 the date that such employer's account originally
207 became delinquent. The commissioner may then make
208 and continue with any of the collection efforts pro-
209 vided for by section five-a of this article even if the
210 employer files another reinstatement application.

211 (g) No employee of an employer required by this
212 chapter to subscribe to the workers' compensation
213 fund shall be denied benefits provided by this chapter
214 because the employer failed to subscribe or because
215 the employer's account is either delinquent or in

216 default.

217 (h) (1) The provisions of this section shall not
218 deprive any individual of any cause of action which
219 has accrued as a result of an injury or death which
220 occurred during any period of delinquency not
221 resolved in accordance with the provisions of this
222 article, or subsequent failure to comply with the terms
223 of the repayment agreement.

224 (2) Upon withdrawal from the fund or termination
225 of election of any employer, he or she shall be
226 refunded the balance due him or her of his or her
227 deposit, after deducting all amounts owed by him or
228 her to the workers' compensation fund, and the
229 commissioner shall notify the employees of such
230 employer of said termination in such manner as he or
231 she may deem best and sufficient.

232 (3) Notice to employees in this section provided for
233 shall be given by posting written notice that the
234 employer is delinquent under the compensation law of
235 West Virginia, and in the case of employers required
236 by this chapter to subscribe and pay premiums to the
237 fund, that the delinquent employer is liable to his or
238 her employees for injury or death, both in workers'
239 compensation benefits and in damages at common law
240 or by statute; and, in the case of employers not
241 required by this chapter to subscribe and pay premi-
242 ums to the fund, but voluntarily electing to do so as
243 herein provided, that neither the employer nor the
244 employees of such employer are protected by said laws
245 as to any injury or death sustained after the date
246 specified in said notice. Such notice shall be in the
247 form prescribed by the commissioner and shall be
248 posted in a conspicuous place at the chief works of the
249 employer, as the same appear in records of the
250 commissioner. If the said chief works of the employer
251 cannot be found or identified, then said notices shall
252 be posted at the front door of the courthouse of the
253 county in which said chief works are located, accord-
254 ing to the records in the commissioner's office. Any
255 person who shall, prior to the reinstatement of the
256 said employer, as hereinbefore provided for, or prior

257 to sixty days after the posting of said notice whichever
258 shall first occur, remove, deface, or render illegible the
259 said notice, shall be guilty of a misdemeanor, and,
260 upon conviction thereof, shall be fined not to exceed
261 five hundred dollars, and the said notice shall state
262 this provision upon its face. The commissioner may
263 require any sheriff, deputy sheriff, constable or other
264 official of the state of West Virginia, who may be
265 authorized to serve civil process, to post such notice
266 and to make return thereof of the fact of such posting
267 to the commissioner, and any failure of such officer to
268 post any notice within ten days after he or she shall
269 have received the same from the commissioner,
270 without just cause or excuse, shall constitute a willful
271 failure or refusal to perform a duty required of him or
272 her by law within the meaning of section twenty-
273 eight, article five, chapter sixty-one of this code. Any
274 person actually injured by reason of such failure shall
275 have an action against said official, and upon any
276 official bond he or she may have given, for such
277 damages as such person may actually have incurred,
278 but not to exceed, in the case of any surety upon said
279 bond, the amount of the penalty of said bond. Any
280 official posting said notice as herein required shall be
281 entitled to the same fee as is now or may hereafter be
282 provided for the service of process in suits instituted in
283 courts of record in the state of West Virginia, which
284 fee shall be paid by the commissioner out of any funds
285 at his or her disposal, but shall be charged by him or
286 her against the account of the employer to whose
287 delinquency such notice relates.

**§23-2-9. Election of employer to provide own system of
compensation; mandatory participation in
second injury reserve of surplus fund and
exceptions; election to provide catastrophe
coverage.**

1 (a) (1) Notwithstanding anything contained in this
2 chapter, employers subject to this chapter who are of
3 sufficient financial responsibility to insure the pay-
4 ment of compensation to injured employees and the
5 dependents of fatally injured employees, whether in

6 the form of pecuniary compensation or medical atten-
7 tion, funeral expenses or otherwise as herein provided,
8 of the value at least equal to the compensation
9 provided in this chapter, or employers of such finan-
10 cial responsibility who maintain their own benefit
11 funds, or system of compensation to which their
12 employees are not required or permitted to contribute,
13 or such employers as shall furnish bond or other
14 security to insure such payments, may, upon a finding
15 of such facts by the commissioner, elect to pay individ-
16 ually and directly, or from such benefit funds, depart-
17 ment or association, such compensation and expenses
18 to injured employees or fatally injured employees'
19 dependents. The commissioner shall require security
20 or bond from such employer, to be approved by the
21 commissioner, and of such amount as is by the com-
22 missioner considered adequate and sufficient to com-
23 pel or secure to such employees, or their dependents,
24 payment of the compensation and expenses herein
25 provided for, which shall in no event be less than the
26 compensation paid or furnished out of the state
27 workers' compensation fund in similar cases to injured
28 employees or the dependents of fatally injured
29 employees whose employers contribute to such fund.

30 (2) Any employer electing under this section to
31 insure payment of compensation to injured employees
32 and the dependents of fatally injured employees shall
33 on or before the last day of the first month of each
34 quarter, for the preceding quarter, file with the
35 commissioner a sworn statement of the total earnings
36 of all the employer's employees subject to this chapter
37 for such preceding quarter, and shall pay into the
38 workers' compensation fund as self insurance pre-
39 mium contributions:

40 (A) A sum sufficient to pay the employer's proper
41 portion of the expenses of the administration of
42 this chapter; and

43 (B) A sum sufficient to pay the employer's proper
44 portion of the expenses for claims for those employers
45 who are delinquent in the payment of premiums;

46 (C) A sum sufficient to pay the employer's fair
47 portion of the expenses of the disabled workers' relief
48 fund, as may be determined by the commissioner.

49 (D) A sum sufficient to maintain as an advance
50 deposit an amount equal to the previous quarter's
51 payment of each of the foregoing three factors.

52 (3) The commissioner shall make and promulgate
53 legislative rules in accordance with chapter twenty-
54 nine-a of this code governing the mode and manner of
55 making application, and the nature and extent of the
56 proof required to justify the finding of facts by the
57 commissioner, to consider and pass upon such election
58 by employers subject to this chapter, which rules shall
59 be general in their application.

60 (4) Any employer whose record upon the books of
61 the commissioner shows a liability against the
62 workers' compensation fund incurred on account of
63 injury to or death of any of the employer's employees,
64 in excess of premiums paid by such employer, shall
65 not be granted the right, individually and directly or
66 from such benefit funds, department or association, to
67 compensate the employer's injured employees and the
68 dependents of the employer's fatally injured
69 employees until the employer has paid into the
70 workers' compensation fund the amount of such
71 excess of liability over premiums paid, including the
72 employer's proper proportion of the liability incurred
73 on account of explosions, catastrophes or second
74 injuries as defined in section one, article three of this
75 chapter, occurring within the state and charged
76 against such fund.

77 (b) (1) Subject to any limitations set forth herein, all
78 employers who have heretofore elected, or shall
79 hereafter elect, to pay compensation and expenses
80 directly as provided in subsection (a) of this section,
81 shall, unless they be permitted under the provisions of
82 this subsection hereinafter set forth to give the second
83 injury security or bond hereinafter provided for, pay
84 into the second injury reserve of the surplus fund
85 referred to in section one, article three of this chapter,

86 upon the basis set forth herein, such payments to be
87 made at the same time as provided in this section for
88 the payment of proportion of expenses of
89 administration.

90 (2) To determine the contribution for second injury
91 coverage for self-insured employers, the commissioner
92 shall first establish, based upon actuarial advice, the
93 projected funding cost for incurred losses for the
94 second injury reserve of the surplus fund for the
95 prospective year for each industrial group or class, so
96 that industrial groups or classes with significantly
97 different experience in use of the second injury
98 reserve shall pay their proper share based upon the
99 record of that industrial group or class: *Provided*, That
100 the commissioner shall establish industrial groups or
101 classes as permitted by section four of this article but
102 need not establish the same number of industrial
103 groups or classes as the number established for
104 purposes of section four of this article. The commis-
105 sioner shall establish a rate for each industrial group
106 or class based upon the total expected second injury
107 fund base rate premium for that industrial group or
108 class and shall further modify such rate for individual
109 employers based upon the ratio of the individual
110 employer's record of actual second injury awards to
111 the average cost of second injury awards for all
112 employers in that industrial group or class. The
113 commissioner may limit such modifications. Actual
114 second injury awards shall mean awards made under
115 this chapter on and after the first day of January, one
116 thousand nine hundred ninety-one, as reflected on the
117 books of the commissioner for a period not to exceed
118 three years ending the thirty-first day of December of
119 the year preceding the year in which the rate is to be
120 effective: *Provided, however*, That any employer
121 whose record for such period cannot be obtained shall
122 be given a rate based upon the employer's record for
123 any part of such period as may be deemed just and
124 equitable by the commissioner: *Provided further*, That
125 for the period from the first day of January, one
126 thousand nine hundred ninety-one through the thir-
127 tieth day of June, one thousand nine hundred ninety-

128 two, inclusive, the commissioner shall consider second
129 injury premium based on a percentage of the base
130 rates assigned to each industrial group or class.

131 (3) In case there be a second injury, as defined in
132 section one, article three of this chapter, to an
133 employee of any employer making such second injury
134 reserve payments, the employer shall be liable to pay
135 compensation or expenses arising from or necessitated
136 by the second injury, and such compensation and
137 expenses shall be charged against such employer:
138 *Provided*, That in addition to such compensation and
139 expenses, and after the completion of the payments
140 therefor, the employee shall be paid the remainder of
141 the compensation and expenses that would be due for
142 permanent total disability from the second injury
143 reserve of the surplus fund. Such additional compen-
144 sation and expenses shall be paid from the second
145 injury reserve of the surplus fund in the same manner
146 and to the same extent as in the case of premium-
147 paying subscribers and such additional compensation
148 and expenses shall not be charged against such
149 employer.

150 (4) (A) Any employer who has heretofore elected to
151 pay compensation and expenses directly under the
152 provisions of subsection (a) of this section, and who:

153 (i) Elected prior to the first day of January, one
154 thousand nine hundred eighty-nine, not to make
155 payments into the second injury reserve of the surplus
156 fund; and

157 (ii) Continuously without interruption, from the first
158 day of January, one thousand nine hundred eighty-
159 nine, to the effective date of this section, elected not to
160 make payments into the second injury reserve of the
161 surplus fund, may elect to continue not to make
162 payments into the second injury reserve of the surplus
163 fund.

164 (B) Any employer who has heretofore elected to pay
165 compensation and expenses directly under the provi-
166 sions of subsection (a) of this section, and who:

167 (i) Was making payments into the second injury
168 reserve of the surplus fund on the first day of Janu-
169 ary, one thousand nine hundred eighty-nine; and

170 (ii) Elected not to make such payments during
171 calendar year one thousand nine hundred eighty-nine;
172 and

173 (iii) Has not thereafter, to the effective date of this
174 section, recommenced making such payments, shall
175 elect one of the two following options:

176 (I) Begin payments into the second injury reserve of
177 the surplus fund as of the first day of July, one
178 thousand nine hundred ninety, in which event such
179 employer shall not thereafter be permitted to elect not
180 to make such payments; or

181 (II) Elect to continue not making such payments in
182 which event the commissioner shall examine the
183 employer's record with regard to the second injury
184 reserve of the surplus fund upon the books of the
185 commissioner and if such record shows a liability
186 against the surplus fund incurred on account of injury
187 to any of the employer's employees, in excess of
188 premiums paid by such employer to the second injury
189 reserve of the surplus fund, then such employer shall
190 pay to the commissioner the present value of that
191 liability.

192 (C) Any employer who is permitted by paragraphs
193 (A) and (B) of this subdivision not to make payments
194 into the second injury reserve of the surplus fund
195 shall, in addition to bond or security required by
196 subsection (a) of this section, furnish second injury
197 security or bond, approved by the commissioner, in
198 such amount and form as the commissioner shall
199 consider adequate and sufficient to compel or secure
200 payment of all compensation and expenses arising
201 from, or necessitated by, any second injury that is or
202 remains to be paid by the employer: *Provided*, That
203 any second injury security or bond given by any such
204 employer pursuant to rules promulgated by the
205 commissioner and with the approval of the commis-
206 sioner prior to the effective date of this section shall

207 remain valid upon the effective date of this section
208 until such time thereafter as the commissioner notifies
209 such employer to the contrary.

210 (D) Any employer permitted by paragraphs (A) and
211 (B) of this subdivision not to make payments into the
212 second injury reserve of the surplus fund who on or
213 after the effective date of this section elects to make
214 payments into the second injury reserve of the surplus
215 fund shall not thereafter be permitted to elect not to
216 make such payments.

217 (5) Except as provided in paragraphs (A) and (B),
218 subdivision (4) of this subsection, all other employers
219 who have heretofore elected or who henceforth elect
220 to pay compensation and expenses directly under the
221 provisions of subsection (a) of this section shall pay
222 into the second injury reserve of the surplus fund
223 such amounts as are determined by the commissioner
224 pursuant to subdivision (2), subsection (b) of this
225 section: *Provided*, That all such other employers who,
226 as of the date immediately preceding the effective date
227 of this section, have been permitted by the commis-
228 sioner not to make such payments are not required to
229 commence making such payments until the first day
230 of July, one thousand nine hundred ninety.

231 (c) (1) All employers who have heretofore elected, or
232 shall hereafter elect, to pay compensation and
233 expenses directly as provided in subsection (a) of this
234 section shall, unless they give the catastrophe security
235 or bond hereinafter provided for, pay into the catastro-
236 phe reserve of the surplus fund referred to in section
237 one, article three of this chapter, upon the same basis
238 and in the same percentages, subject to the limitations
239 herein set forth, as funds are set aside for the main-
240 tenance of the catastrophe reserve of the surplus fund
241 out of payments made by premium-paying subscrib-
242 ers, such payments to be made at the same time as
243 hereinbefore provided with respect to payment of
244 proportion of expenses of administration.

245 (2) In case there be a catastrophe, as defined in
246 section one, article three of this chapter, to the

247 employees of any employer making such payments,
248 the employer shall not be liable to pay compensation
249 or expenses arising from or necessitated by the
250 catastrophe, and such compensation and expenses shall
251 not be charged against such employer, but such
252 compensation and expenses shall be paid from the
253 catastrophe reserve of the surplus fund in the same
254 manner and to the same extent as in the case of
255 premium-paying subscribers.

256 (3) If an employer elects to make payments into the
257 catastrophe reserve of the surplus fund as aforesaid,
258 then the bond or other security required by this
259 section shall be of such amount as the commissioner
260 considers adequate and sufficient to compel or secure
261 to the employees or their dependents payments of
262 compensation and expenses, except any compensation
263 and expenses that may arise from, or be necessitated
264 by, any catastrophe as defined in section one, article
265 three of this chapter, which last are secured by and
266 shall be paid from the catastrophe reserve of the
267 surplus fund as hereinbefore provided.

268 (4) If any employer elects not to make payments into
269 the catastrophe reserve of the surplus fund, as herein-
270 before provided, then, in addition to bond or security
271 in the amount hereinbefore set forth, such employer
272 shall furnish catastrophe security or bond, approved
273 by the commissioner, in such additional amount as the
274 commissioner shall consider adequate and sufficient to
275 compel or secure payment of all compensation and
276 expenses arising from, or necessitated by, any catastro-
277 phe that might thereafter ensue.

278 (5) All employers hereafter making application to
279 carry their own risk under the provisions of this
280 subsection shall, with such application, make a written
281 statement as to whether such employer elects to make
282 payments as aforesaid into the catastrophe reserve of
283 the surplus fund or not to make such payments and to
284 give catastrophe security or bond hereinbefore in such
285 case provided for.

286 (d) In any case under the provisions of this section

287 that shall require the payment of compensation or
288 benefits by an employer in periodical payments, and
289 the nature of the case makes it possible to compute the
290 present value of all future payments, the commis-
291 sioner may, in his or her discretion, at any time
292 compute and permit or require to be paid into the
293 workers' compensation fund an amount equal to the
294 present value of all unpaid compensation for which
295 liability exists, in trust; and thereupon such employer
296 shall be discharged from any further liability upon
297 such award, and payment of the same shall be
298 assumed by the workers' compensation fund.

299 (e) Any employer subject to this chapter who shall
300 elect to carry the employer's own risk and who has
301 complied with the requirements of this section and the
302 rules of the commissioner shall not be liable to
303 respond in damages at common law or by statute for
304 the injury or death of any employee, however occur-
305 ring, after such election and during the period that the
306 employer is allowed by the commissioner to carry the
307 employer's own risk.

§23-2-13. Interest on past due payments; reinstatement agreements.

1 Payments unpaid on the date on which due and
2 payable, as prescribed by the commissioner, shall
3 immediately begin bearing interest at the rate of
4 eighteen percent per annum. This same rate of inter-
5 est shall be applicable to all reinstatement agreements
6 entered into by the commissioner pursuant to section
7 five of this article on and after the effective date of
8 this section. Interest shall be compounded quarterly
9 until payment plus accrued interest is received by the
10 commissioner: *Provided*, That on and after the date of
11 execution of a reinstatement agreement, for determin-
12 ing future interest on any past due premium, pre-
13 mium deposit, and past compounded interest thereon,
14 any reinstatement agreement entered into by the
15 commissioner shall provide for a simple rate of
16 interest for the future interest. Interest collected
17 pursuant to this section shall be paid into the workers'
18 compensation fund: *Provided, however*, That in no

19 event shall the rate of interest charged a political
20 subdivision of the state or a volunteer fire department
21 pursuant to this section exceed ten percent per
22 annum.

ARTICLE 5. REVIEW.

**§23-5-1j. Requests for permanent total disability awards and
second injury life awards following objec-
tions to decisions by the commissioner;
remands to the commissioner; development
of the record.**

1 (a) If, following an objection to any decision of the
2 commissioner, any party to a claim pending before the
3 office of judges requests that a claimant be awarded a
4 permanent total disability award or a second injury
5 life award or if the administrative law judge on his or
6 her own motion believes that the record is incomplete
7 on the issue of whether a claimant should be issued a
8 permanent total disability award or a second injury
9 life award, then the administrative law judge shall
10 enter an order remanding the claim to the commis-
11 sioner. An order directing that a claim be remanded
12 shall be interlocutory in nature and shall not be
13 appealable under section three of this article to the
14 appeals board created pursuant to section two of this
15 article. Upon remand, the commissioner may exercise
16 the authority granted to him or her by this chapter to
17 determine whether or not the claimant is entitled to a
18 permanent total disability award or a second injury
19 life award. The commissioner shall act upon any
20 matter remanded to him or her pursuant to this
21 section in a speedy and timely manner and in no event
22 longer than one hundred twenty days. Following the
23 commissioner's decision, any party to the claim may
24 file an objection to the decision pursuant to the other
25 provisions of this article.

26 (b) During the pendency of the remand proceedings
27 before the commissioner, the original decision from
28 which the objection was taken shall remain in effect
29 and action on the protest held in abeyance pending the
30 commissioner's action on the remand order. Upon the

31 entry of a decision on the issue of whether a perma-
32 nent total disability award or a second injury life
33 award is to be made, the claim shall be returned to the
34 office of judges for such further proceedings as may be
35 required on that first objection. If a further objection
36 is made pursuant to subsection (a) of this section to the
37 commissioner's decision on the issue of whether a
38 permanent total disability award or a second injury
39 life award is to be made, then such proceedings on
40 such objection shall be made part of the proceedings
41 on the first objection.

§23-5-3. Appeal to board; procedure; remand and supplemental hearing.

1 Any employer, employee, claimant or dependent,
2 who shall feel aggrieved at any final action of the
3 commissioner or administrative law judge taken after
4 a hearing held in accordance with the provisions of
5 section one or section one-h of this article, shall have
6 the right to appeal to the board created in section two
7 of this article for a review of such action. The commis-
8 sioner shall likewise have the right to appeal to the
9 appeal board any final action taken in a proceeding in
10 which he or she is a party. The aggrieved party shall
11 file a written notice of appeal with the compensation
12 commissioner or, after the first day of July, one
13 thousand nine hundred ninety-one, with the office of
14 judges directed to such board, within thirty days after
15 receipt of notice of the action complained of, or in any
16 event, regardless of notice, within sixty days after the
17 date of the action complained of, and unless the notice
18 of appeal is filed within the time specified, no such
19 appeal shall be allowed, such time limitation being
20 hereby declared to be a condition of the right to such
21 appeal and hence jurisdictional; and the commissioner
22 or the office of judges shall notify the other parties
23 immediately upon the filing of a notice of appeal. The
24 commissioner or the office of judges shall forthwith
25 make up a transcript of the proceedings before the
26 commissioner or the office of judges and certify and
27 transmit the same to the board. Such certificate shall
28 incorporate a brief recital of the proceedings therein

29 had and recite each order entered and the date
30 thereof.

31 The board shall review the action of the commis-
32 sioner or administrative law judge complained of at its
33 next meeting after the filing of notice of appeal,
34 provided such notice of appeal shall have been filed
35 thirty days before such meeting of the board, unless
36 such review be postponed by agreement of parties or
37 by the board for good cause. The board shall set a time
38 and place for the hearing of arguments on each claim
39 and shall notify the interested parties thereof, and
40 briefs may be filed by the interested parties in
41 accordance with the rules of procedure prescribed by
42 the board. And thereupon, after a review of the case,
43 the board shall sustain the finding of the commissioner
44 or administrative law judge, in which case it need not
45 make findings of fact or conclusions of law, or enter
46 such order or make such award as the commissioner
47 or administrative law judge should have made, stating
48 in writing its reasons therefor, and shall thereupon
49 certify the same to the commissioner, or chief admin-
50 istrative law judge, who shall proceed in accordance
51 therewith. Or, instead of affirming or reversing the
52 commissioner or administrative law judge as aforesaid,
53 the board may, upon motion of either party or upon its
54 own motion, for good cause shown, to be set forth in
55 the order of the board, remand the case to the
56 commissioner or chief administrative law judge for
57 the taking of such new, additional or further evidence
58 as in the opinion of the board may be necessary for a
59 full and complete development of the facts of the case.
60 In the event the board shall remand the case to the
61 commissioner or chief administrative law judge for
62 the taking of further evidence therein, the commis-
63 sioner or administrative law judge shall proceed to
64 take such new, additional or further evidence in
65 accordance with any instruction given by the board,
66 and shall take the same within thirty days after
67 receipt of the order remanding the case, giving to the
68 interested parties at least ten days' written notice of
69 such supplemental hearing, unless the taking of
70 evidence shall be postponed by agreement of parties,

71 or by the commissioner or administrative law judge
72 for good cause. After the completion of such supple-
73 mental hearing, the commissioner or administrative
74 law judge shall, within sixty days, render his or her
75 decision affirming, reversing or modifying the former
76 action of the commissioner or administrative law
77 judge, which decision shall be appealable to, and
78 proceeded with by the appeal board in like manner as
79 in the first instance. The board may remand any case
80 as often as in its opinion is necessary for a full
81 development and just decision of the case. The board
82 may take evidence or consider ex parte statements
83 furnished in support of any motion to remand the case
84 to the commissioner or chief administrative law judge.
85 All evidence taken by or filed with the board shall
86 become a part of the record. All appeals from the
87 action of the commissioner or administrative law
88 judge shall be decided by the board at the same
89 session at which they are heard, unless good cause for
90 delay thereof be shown and entered of record. In all
91 proceedings before the board, any party may be
92 represented by counsel.

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

Elmer Heck
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Garrett E. Adams
.....
Clerk of the Senate

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

Nick Bassette
.....
President of the Senate

Bob Ochs
.....
Speaker House of Delegates

The within ~~approved~~ this the *3rd*.....

day of *April*....., 1991.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR,

Date

3/20/91

Time

10:25am