

HB 4526

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

HOUSE BILL No. 4526

(By Delegates Love, Fragale, Heck, Higgins,
Stewart, Walters + Millison)



Passed March 3, 1994

In Effect July 1, 1994 ~~Passage~~

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H. B. 4526

(By DELEGATES LOVE, FRAGALE, HECK, HIGGINS,
STEWART, WALTERS AND WILLISON)

[Passed March 3, 1994; in effect July 1, 1994.]

AN ACT to amend and reenact section one-g, article five, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to continuation of the office of judges of workers' compensation.

Be it enacted by the Legislature of West Virginia:

That section one-g, article five, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

§23-5-1g. Continuation of office of administrative law judges; powers of chief administrative law judge and said office.

1 (a) There is hereby continued within the workers'
2 compensation appeal board the workers' compensation
3 office of administrative law judges which shall be
4 referred to as the office of judges. The office of judges
5 shall be under the supervision of a chief administrative
6 law judge who shall be appointed by the governor, with
7 the advice and consent of the Senate.

8 (b) The chief administrative law judge shall be a
9 person who has been admitted to the practice of law in
10 this state and shall also have had at least four years of
11 experience as an attorney. The chief administrative law
12 judge's salary shall be set by the appeal board created
13 in section two of this article. Said salary shall be within

14 the salary range for comparable chief administrative
15 law judges as determined by the state personnel board
16 created by section six, article six of chapter twenty-nine
17 of this code. The chief administrative law judge may
18 only be removed by the appeal board and shall not be
19 removed except for official misconduct, incompetence,
20 neglect of duty, gross immorality, or malfeasance and
21 then only after he or she has been presented in writing
22 with the reasons for his or her removal and then only
23 in the manner prescribed in article six-a of chapter
24 twenty-nine of this code. No other provision of this code
25 purporting to limit the term of office of any appointed
26 official or employee or affecting the removal of any
27 appointed official or employee shall be applicable to the
28 chief administrative law judge.

29 (c) By and with the consent of the commissioner, the
30 chief administrative law judge shall employ such
31 additional administrative law judges and other person-
32 nel as are necessary for the proper conduct of a system
33 of administrative review of orders issued by the
34 commissioner which orders have been objected to by a
35 party, and all such employees shall be in the classified
36 service of the state. Qualifications, compensation and
37 personnel practice relating to the employees of the office
38 of judges, other than the chief administrative law judge,
39 shall be governed by the provisions of the statutes, rules
40 and regulations of the classified service pursuant to
41 article six, chapter twenty-nine of this code. All such
42 additional administrative law judges shall be persons
43 who have been admitted to the practice of law in this
44 state and shall also have had at least two years of
45 experience as an attorney. The chief administrative law
46 judge shall supervise the other administrative law
47 judges and other personnel which collectively shall be
48 referred to in this chapter as the office of judges.

49 (d) The administrative expense of the office of judges
50 shall be included by the appeal board in its annual
51 budget when it submits that budget to the commissioner
52 pursuant to section two of this article.

53 (e) With the advice and consent of the commissioner,
54 on or before the first day of May, one thousand nine

55 hundred ninety-one, the appeal board shall promulgate
56 rules of practice and procedure for the hearing and
57 determination of all objections to findings or orders of
58 the commissioner pursuant to section one of this article
59 and for the settlement of claims pursuant to section one-
60 f of this article. Such rules of practice and procedure
61 shall be promulgated in accordance with the provisions
62 of article three of chapter twenty-nine-a of this code. The
63 appeal board shall not have the power to promulgate
64 legislative rules as that phrase is defined in article three
65 of chapter twenty-nine-a of this code.

66 (f) On and after the first day of July, one thousand
67 nine hundred ninety-one, the chief administrative law
68 judge shall have the power, which shall be delegated by
69 the appeal board, to hear and determine all disputed
70 claims in accordance with the provisions of this article,
71 establish a procedure for the hearing of disputed claims,
72 take oaths, examine witnesses, issue subpoenas, estab-
73 lish the amount of witness fees, keep such records and
74 make such reports as are necessary for disputed claims,
75 review and approve agreements to compromise and
76 settle claims involving permanent partial disability
77 awards permitted by the provisions of section one-f,
78 article five of this chapter, and exercise such additional
79 powers, including the delegation of such powers to
80 administrative law judges or hearing examiners as may
81 be necessary for the proper conduct of a system of
82 administrative review of disputed claims.

83 (g) Pursuant to the provisions of chapter four, article
84 ten of this code, the office of judges shall continue to
85 exist until the first day of July, one thousand nine
86 hundred ninety-six, to allow for the completion of a
87 preliminary performance review by the joint committee
88 on government operations.

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

[Handwritten signature]

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect July 1, 1994.

Darrell E. Adams

Clerk of the Senate

Daniel E. Hoops
Clerk of the House of Delegates

Neil Sanders

President of the Senate

Paul Abner

Speaker of the House of Delegates

The within *is approved* this the *16th* day of *March* 1994.

Caston Capner
Governor

PRESENTED TO THE

GOVERNOR

Date

3/12/94

Time

1:10 pm