WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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ENROLLED

HOUSE BILL No. 4526

(By Delegates Love, Fragale, Hix, Higgins,)
Stewart, Watkins, Willison

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Passed ........................................ March 3, 1994

In Effect ..................................... July 1, 1994
ENROLLED

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.

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

(b) The chief administrative law judge shall be a person who has been admitted to the practice of law in this state and shall also have had at least four years of experience as an attorney. The chief administrative law judge's salary shall be set by the appeal board created in section two of this article. Said salary shall be within
the salary range for comparable chief administrative
law judges as determined by the state personnel board
created by section six, article six of chapter twenty-nine
of this code. The chief administrative law judge may
only be removed by the appeal board and shall not be
removed except for official misconduct, incompetence,
neglect of duty, gross immorality, or malfeasance and
then only after he or she has been presented in writing
with the reasons for his or her removal and then only
in the manner prescribed in article six-a of chapter
twenty-nine of this code. No other provision of this code
purporting to limit the term of office of any appointed
official or employee or affecting the removal of any
appointed official or employee shall be applicable to the
chief administrative law judge.

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

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

(e) With the advice and consent of the commissioner,
on or before the first day of May, one thousand nine
hundred ninety-one, the appeal board shall promulgate rules of practice and procedure for the hearing and determination of all objections to findings or orders of the commissioner pursuant to section one of this article and for the settlement of claims pursuant to section one-f of this article. Such rules of practice and procedure shall be promulgated in accordance with the provisions of article three of chapter twenty-nine-a of this code. The appeal board shall not have the power to promulgate legislative rules as that phrase is defined in article three of chapter twenty-nine-a of this code.

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

(g) Pursuant to the provisions of chapter four, article ten of this code, the office of judges shall continue to exist until the first day of July, one thousand nine hundred ninety-six, to allow for the completion of a preliminary performance review by the joint committee on government operations.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1994.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the ___ day of ____________ 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/12/194
Time 1:18 pm