WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 79

Originated from the Committee on Government Organization
(By Senator)

PASSED March 7, 1997

In Effect 20 days From Passage
AN ACT to amend and reenact section eight, article five, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to continuing the office of judges of the workers' compensation system until the first day of July, one thousand nine hundred ninety-eight.

Be it enacted by the Legislature of West Virginia:

That section eight, 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:

ARTICLE 5. REVIEW.

§23-5-8. Continuation of office of administrative law judges; powers of chief administrative law judge and said office.
(a) The workers' compensation office of administrative law judges previously created pursuant to chapter twelve, acts of the Legislature, one thousand nine hundred ninety, second extraordinary session, is hereby continued and designated to be an integral part of the workers' compensation system of this state. 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. The previously appointed incumbent of that position who was serving on the second day of February, one thousand nine hundred ninety-five, shall continue to serve in that capacity unless subsequently removed as provided for in subsection (b) of this section.

(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 compensation programs performance council created in section one, article three, chapter twenty-one-a of this code. 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, chapter twenty-nine of this code. The chief administrative law judge may only be removed by a vote of two thirds of the members of the compensation programs performance council 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 is given opportunity to respond and to present evidence. 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 administrative law judges and other personnel as are necessary for the proper conduct of a system of administrative review of
orders issued by the workers' compensation division 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 within the annual budget of the workers' compensation division.

(e) Subject to the approval of the compensation programs performance council pursuant to subdivisions (b) and (c), section seven, article three, chapter twenty-one-a of this code, the office of judges shall from time to time promulgate rules of practice and procedure for the hearing and determination of all objections to findings or orders of the workers' compensation division pursuant to section one of this article. The office of judges shall not have the power to initiate or to promulgate legislative rules as that phrase is defined in article three, chapter twenty-nine-a of this code.

(f) The chief administrative law judge shall continue to have the power 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, 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. The chief
81 administrative law judge shall make such reports as may
82 be requested of him or her by the compensation programs
83 performance council.
84 (g) Pursuant to the provisions of article ten, chapter four
85 of this code, the office of judges shall continue to exist
86 until the first day of July, one thousand nine hundred
87 ninety-eight.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within is approved this the 18th day of March, 1997.

[Signature]
Governor