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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 4068

(By Mr. Speaker, Mr. Kiss, and Delegate Ashley)

[By Request of the Executive]



Passed March 13, 1998

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

H. B. 4068

(BY MR. SPEAKER, MR. KISS, AND DELEGATE ASHLEY)

[BY REQUEST OF THE EXECUTIVE]

[Passed March 13, 1998; in effect ninety days from passage.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten-j, relating to creating the West Virginia traumatic brain and spinal cord injury rehabilitation fund; defining terms; creating traumatic brain and spinal cord injury rehabilitation fund board; designating certain public officials and authorizing governor to appoint certain citizens to serve on the board; establishing terms of office, attendance requirements and officers of the board; authorizing board to promulgate legislative rules; providing for the reimbursement of expenses of board members; creating a special revenue account; providing for the administration of such fund; setting forth criteria for the use of such fund; defining duties of the board; and establishing certain restrictions on the use of such fund.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten-j, to read as follows:

ARTICLE 10J. WEST VIRGINIA TRAUMATIC BRAIN AND SPINAL CORD INJURY REHABILITATION FUND ACT.

§18-10J-1. Terms defined.

1 As used in this article, the term:

2 (1) "Board" means the West Virginia traumatic brain
3 and spinal cord injury rehabilitation fund board.

4 (2) "Fund" means the West Virginia traumatic brain
5 and spinal cord injury rehabilitation fund.

6 (3) "Traumatic brain injury" means an acquired injury
7 to the brain, including brain injuries caused by anoxia due
8 to near drowning. "Traumatic brain injury" does not
9 include brain dysfunction caused by congenital or
10 degenerative disorders, nor birth trauma.

11 (4) "Spinal cord injury" means a traumatic injury to
12 the spinal cord that results in a permanent loss of sensation
13 and voluntary movement below the level of the lesion.

§18-10J-2. Board created, membership, terms, officers and staff.

1 (a) There is established the West Virginia traumatic
2 brain and spinal cord injury rehabilitation fund board.

3 (b) The board shall consist of twenty-three members.
4 The members shall include:

5 (1) The secretary of the department of education and
6 the arts, ex officio, or his or her designee;

7 (2) The secretary of health and human resources, ex
8 officio, or his or her designee;

9 (3) The state superintendent of schools, ex officio, or
10 his or her designee;

11 (4) The secretary of the department of military affairs
12 and public safety, ex officio, or his or her designee;

13 (5) The director of the bureau of behavioral health
14 within the department of health and human resources, ex
15 officio, or his or her designee;

16 (6) The director of the division of rehabilitation
17 services, ex officio, or his or her designee;

18 (7) The director of the bureau of medical services, ex
19 officio, or his or her designee;

20 (8) The director of the office of emergency services,
21 ex officio, or his or her designee;

22 (9) The commissioner of the bureau of employment
23 programs, ex officio, or his or her designee;

24 (10) Seven members appointed by the governor to
25 represent public and private health organizations or other
26 disability coalitions or advisory groups; and

27 (11) Seven members appointed by the governor who
28 are either survivors of traumatic brain or spinal cord
29 injury or family members of persons with traumatic brain
30 or spinal cord injury.

31 (c) The citizen members shall be appointed by the
32 governor for terms of three years, except that of the
33 members first appointed, two of the representatives of
34 public and nonprofit private health organizations,
35 disability coalitions or advisory groups and two of the
36 representatives of survivors or family members of persons
37 with traumatic brain or spinal cord injuries shall serve for
38 terms of one year, two of the representatives of each of
39 those respective groups shall serve for terms of two years,
40 and the remaining three representatives of each of those
41 respective groups shall serve for terms of three years. All
42 subsequent appointments shall be for three years.
43 Members shall serve until the expiration of the term for
44 which they have been appointed or until their successors
45 have been appointed and qualified. In the event of a
46 vacancy the governor shall appoint a qualified person to
47 serve for the unexpired term. No member may serve
48 more than two consecutive three-year terms. State officers
49 or employees may be appointed to the board unless
50 otherwise prohibited by law.

51 (d) In the event a board member fails to attend more
52 than twenty-five percent of the scheduled meetings in a
53 twelve-month period, the board may, after written
54 notification to that member and the secretary of education
55 and the arts, request in writing that the governor remove
56 the member and appoint a new member to serve his or her
57 unexpired term.

58 (e) The board shall elect from its membership a
59 chairperson, treasurer and secretary as well as any other
60 officer as appropriate. The term of the chairperson is for
61 two years in duration and he or she cannot serve more
62 than two consecutive terms.

§18-10J-3. Promulgation of legislative rules.

1 The board may propose legislative rules for
2 promulgation, in accordance with the provisions of article
3 three, chapter twenty-nine-a of this code, necessary for the
4 transaction of its business or to carry out the purposes of
5 this article.

§18-10J-4. Expenses of board.

1 Members of the board shall receive reimbursement for
2 reasonable and necessary expenses actually incurred in the
3 performance of their duties as members of the board in
4 accordance with state travel regulations. Members with
5 disabilities may receive additional reimbursement for costs
6 associated with personal assistance, interpreters and
7 disability-related accommodations when those costs are
8 incurred in the course of conducting the business of the
9 board. All reimbursement authorized in this section shall
10 be paid from moneys in the fund.

§18-10J-5. Fund created; administration of fund; administrative fees; fund use.

1 (a) There is created in the state treasury a special
2 revenue account to be known as the "West Virginia
3 traumatic brain and spinal cord injury rehabilitation
4 fund" which is under the jurisdiction of the division of
5 rehabilitation services. The West Virginia traumatic brain
6 and spinal cord injury rehabilitation fund is subject to the
7 annual appropriation of funds by the Legislature. The

8 West Virginia traumatic brain and spinal cord injury
9 rehabilitation fund may receive any gifts, grants,
10 contributions or other money from any source which is
11 specifically designated for deposit in the fund.

12 (b) All moneys collected, received and deposited into
13 the state treasury and credited to the West Virginia
14 traumatic brain and spinal cord injury rehabilitation fund
15 shall be expended by the board exclusively in accordance
16 with the uses and criteria set forth in this article.
17 Expenditures from this fund for any other purposes are
18 void.

19 (c) The fund shall be administered by the division of
20 rehabilitation services under the department of education
21 and the arts. The division of rehabilitation services may
22 retain an amount not to exceed ten percent per annum of
23 the balance of the fund to cover any costs of
24 administration of the fund.

25 (d) Nothing in this article may be construed to
26 mandate funding for the West Virginia traumatic brain
27 and spinal cord injury rehabilitation fund or to require
28 any appropriation by the Legislature.

29 (e) Moneys in the fund shall be used to pay for
30 services that will increase opportunities for and enhance
31 the achievement of functional independence, and a return
32 to a productive lifestyle for individuals who have suffered
33 a traumatic brain injury or a spinal cord injury.

34 (f) Services that are eligible for payment by the fund
35 shall include, but not be limited to:

- 36 (1) Case management;
- 37 (2) Rehabilitative therapies and services;
- 38 (3) Attendant care;
- 39 (4) Home accessibility modifications;
- 40 (5) Equipment necessary for activities; and
- 41 (6) Family support services.

42 (g) Funds shall be expended according to the

43 priorities and criteria for disbursement established by the
44 board under section six of this article.

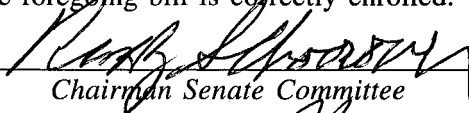
§18-10J-6. Criteria and priorities for use of fund.

1 (a) The board shall establish priorities and criteria for
2 the disbursement of moneys in the fund. When the board
3 determines that additional services should be eligible for
4 payments from the fund, the chairman shall provide
5 written notice to the division of rehabilitation services in
6 the department of education and the arts directing that
7 those services be eligible for payment by the fund.

8 (b) The board shall investigate the needs of citizens
9 with traumatic brain injuries and spinal cord injuries,
10 identify the gaps in services to these citizens, and issue an
11 annual report to the Legislature each year with
12 recommendations for meeting the identified needs,
13 improving coordination of services and summarizing its
14 actions during the preceding year.

15 (c) Moneys expended for services described under
16 section five of this article shall be as a payer of last resort
17 and only for citizens of this state. An individual shall use
18 comparable benefits and services that are available prior to
19 the expenditure of moneys available to that individual
20 through the fund.

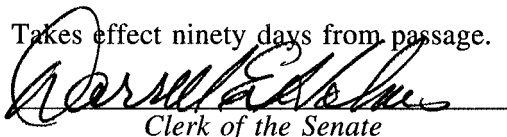
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee



Chairman House Committee

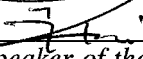
Originating in the House.

Takes effect ninety days from passage.

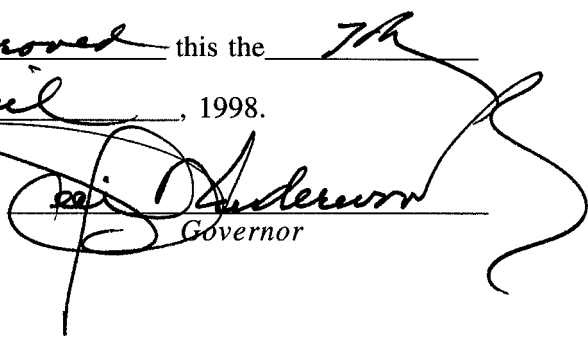

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 7th
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/08

Time 10:00 am