

RECEIVED

99 APR -5 AM 3:51

WEST VIRGINIA LEGISLATURE
STATE HOUSE OF DELEGATES

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

House Bill No. 2674

(By Delegates Douglas, Collins, Prunty,
H. White, Hatfield and Stalnaker)



Passed March 12, 1999

In Effect Ninety Days from Passage

H.B. 2674

RECEIVED

99 APR -5 AM 9 51

LECTURE
SECRET

ENROLLED
H. B. 2674

(BY DELEGATES DOUGLAS, COLLINS, PRUNTY,
H. WHITE, HATFIELD AND STALNAKER)

[Passed March 12, 1999; in effect ninety 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.

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.

- 1 (a) The workers' compensation office of administrative law
- 2 judges previously created pursuant to chapter twelve, acts of the
- 3 Legislature, one thousand nine hundred ninety, second extraor-
- 4 dinary session, is hereby continued and designated to be an
- 5 integral part of the workers' compensation system of this state.
- 6 The office of judges shall be under the supervision of a chief
- 7 administrative law judge who shall be appointed by the

8 governor, with the advice and consent of the Senate. The
9 previously appointed incumbent of that position who was
10 serving on the second day of February, one thousand nine
11 hundred ninety-five, shall continue to serve in that capacity
12 unless subsequently removed as provided for in subsection (b)
13 of this section.

14 (b) The chief administrative law judge shall be a person
15 who has been admitted to the practice of law in this state and
16 shall also have had at least four years of experience as an
17 attorney. The chief administrative law judge's salary shall be
18 set by the compensation programs performance council created
19 in section one, article three, chapter twenty-one-a of this code.
20 Said salary shall be within the salary range for comparable chief
21 administrative law judges as determined by the state personnel
22 board created by section six, article six, chapter twenty-nine of
23 this code. The chief administrative law judge may only be
24 removed by a vote of two thirds of the members of the compen-
25 sation programs performance council and shall not be removed
26 except for official misconduct, incompetence, neglect of duty,
27 gross immorality or malfeasance and then only after he or she
28 has been presented in writing with the reasons for his or her
29 removal and is given opportunity to respond and to present
30 evidence. No other provision of this code purporting to limit the
31 term of office of any appointed official or employee or affect-
32 ing the removal of any appointed official or employee shall be
33 applicable to the chief administrative law judge.

34 (c) By and with the consent of the commissioner, the chief
35 administrative law judge shall employ administrative law
36 judges and other personnel as are necessary for the proper
37 conduct of a system of administrative review of orders issued
38 by the workers' compensation division which orders have been
39 objected to by a party, and all such employees shall be in the
40 classified service of the state. Qualifications, compensation and
41 personnel practice relating to the employees of the office of
42 judges, other than the chief administrative law judge, shall be
43 governed by the provisions of the statutes, rules and regulations
44 of the classified service pursuant to article six, chapter
45 twenty-nine of this code. All such additional administrative law

46 judges shall be persons who have been admitted to the practice
47 of law in this state and shall also have had at least two years of
48 experience as an attorney. The chief administrative law judge
49 shall supervise the other administrative law judges and other
50 personnel which collectively shall be referred to in this chapter
51 as the office of judges.

52 (d) The administrative expense of the office of judges shall
53 be included within the annual budget of the workers' compensa-
54 tion division.

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

65 (f) The chief administrative law judge shall continue to
66 have the power to hear and determine all disputed claims in
67 accordance with the provisions of this article, establish a
68 procedure for the hearing of disputed claims, take oaths,
69 examine witnesses, issue subpoenas, establish the amount of
70 witness fees, keep such records and make such reports as are
71 necessary for disputed claims, and exercise such additional
72 powers, including the delegation of such powers to administra-
73 tive law judges or hearing examiners as may be necessary for
74 the proper conduct of a system of administrative review of
75 disputed claims. The chief administrative law judge shall make
76 such reports as may be requested of him or her by the compen-
77 sation programs performance council.

78 (g) Pursuant to the provisions of article ten, chapter four of
79 this code, the office of judges shall continue to exist until the
80 first day of July, two thousand.

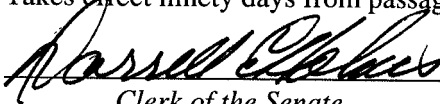
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

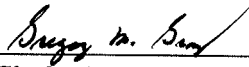

Chairman Senate Committee

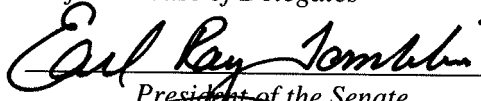

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

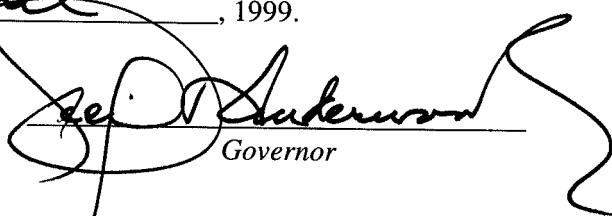

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 15
day of April, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date 5/30/99

Time 3:38 pm