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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

House Bill No. 4773

(By Delegates Douglas, Varner, Butcher,
Caputo, Prunty, Willison and L. Smith)



Passed March 11, 2000

In Effect Ninety Days from Passage

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H. B. 4773

(BY DELEGATES DOUGLAS, VARNER, BUTCHER,
CAPUTO, PRUNTY, WILLISON AND L. SMITH)

[Passed March 11, 2000; 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 administrative law judges.

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 gover-
8 nor, with the advice and consent of the Senate. The previously
9 appointed incumbent of that position who was serving on the
10 second day of February, one thousand nine hundred ninety-five,
11 shall continue to serve in that capacity unless subsequently
12 removed as provided for in subsection (b) of this section.

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

33 (c) By and with the consent of the commissioner, the chief
34 administrative law judge shall employ administrative law
35 judges and other personnel as are necessary for the proper
36 conduct of a system of administrative review of orders issued
37 by the workers' compensation division which orders have been
38 objected to by a party, and all such employees shall be in the

39 classified service of the state. Qualifications, compensation and
40 personnel practice relating to the employees of the office of
41 judges, other than the chief administrative law judge, shall be
42 governed by the provisions of the statutes, rules and regulations
43 of the classified service pursuant to article six, chapter
44 twenty-nine of this code. All such additional administrative law
45 judges shall be persons who have been admitted to the practice
46 of law in this state and shall also have had at least two years of
47 experience as an attorney. The chief administrative law judge
48 shall supervise the other administrative law judges and other
49 personnel which collectively shall be referred to in this chapter
50 as the office of judges.

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

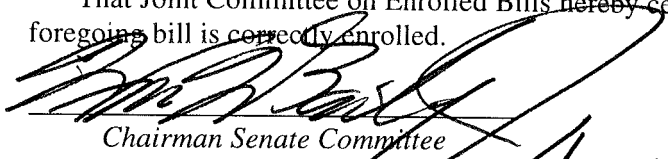
54 (e) Subject to the approval of the compensation programs
55 performance council pursuant to subdivisions (b) and (c),
56 section seven, article three, chapter twenty-one-a of this code,
57 the office of judges shall from time to time promulgate rules of
58 practice and procedure for the hearing and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

64 (f) The chief administrative law judge shall continue to
65 have the power to hear and determine all disputed claims in
66 accordance with the provisions of this article, establish a
67 procedure for the hearing of disputed claims, take oaths,
68 examine witnesses, issue subpoenas, establish the amount of
69 witness fees, keep such records and make such reports as are
70 necessary for disputed claims, and exercise such additional
71 powers, including the delegation of such powers to administra-

72 tive law judges or hearing examiners as may be necessary for
73 the proper conduct of a system of administrative review of
74 disputed claims. The chief administrative law judge shall make
75 such reports as may be requested of him or her by the compen-
76 sation programs performance council.

77 (g) Pursuant to the provisions of article ten, chapter four of
78 this code, the office of judges shall continue to exist until the
79 first day of July, two thousand one, unless sooner terminated,
80 continued or reestablished by act of the Legislature.

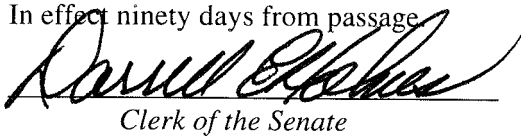
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

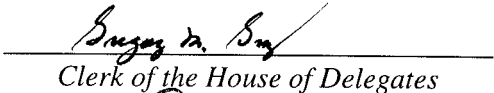

Chairman Senate Committee

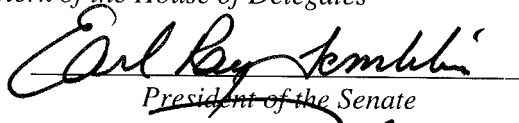

Chairman House Committee

Originating in the House.

In effect ninety days from passage

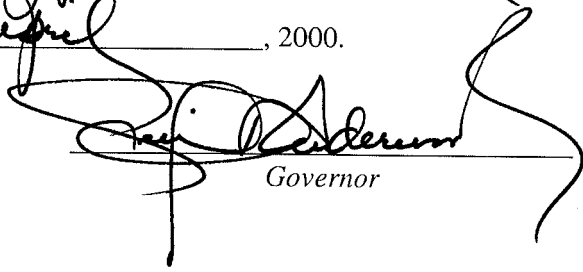

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 3d
day of April, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/20

Time 3:32 pm