WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 498

(By Senator Bailey, et al)

PASSED March 30, 2001

In Effect July 1, 2001

Passage
ENROLLED

Senate Bill No. 498

(BY SENATORS BAILEY, BURNETTE, CHAFIN, JACKSON, MCCABE, MINARD, REDD, ROWE, WOOTON AND BOLEY)

[Passed March 30, 2001; to take effect July 1, 2001.]

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; and to further amend said article by adding thereto a new section, designated section seventeen, all relating to continuing the office of judges in workers' compensation.

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; and that said article be further amended by adding thereto a new section, designated section seventeen, all to read as follows:

ARTICLE 5. REVIEW.

§23-5-8. Designation 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 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 said 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 administra-
tive 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 admin-
istrative 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 pro-
grams 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
said 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 administrative law judge shall make such reports as may be requested of him or her by the compensation programs performance council.

§23-5-17. Termination of office of judges.

The office of judges shall terminate on the first day of July, two thousand three, pursuant to the provisions of article ten, chapter four of this code unless sooner terminated, continued or reestablished pursuant to the provisions of that article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2001.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 13th Day of April, 2001.

Governor