

**Senate Bill No. 520**

(By Senator Yost)

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[Introduced February 10, 2014; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

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**FISCAL  
NOTE**

A BILL to amend and reenact §23-1-1 of the Code of West Virginia,  
1931, as amended, relating generally to workers' compensation;  
acknowledging that the deficit crisis is over; recognizing  
that West Virginia's labor force is its greatest asset and  
resource; stating that injured workers should receive  
preeminent and efficient treatment; and stating that it is the  
intent of the Legislature that a rule of liberal construction  
based on any remedial basis of workers' compensation  
legislation shall be applied when deciding cases.

*Be it enacted by the Legislature of West Virginia:*

That §23-1-1 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 1. GENERAL ADMINISTRATIVE PROVISIONS.**

**§23-1-1. Workers' Compensation Commission created; findings.**

(a) ~~The Legislature finds that a deficit exists in the  
Workers' Compensation Fund of such critical proportions that it  
constitutes an imminent threat to the immediate and long-term~~

1 ~~solvency of the fund and constitutes a substantial deterrent to the~~  
2 ~~economic development of this state. The Legislature further finds~~  
3 ~~that addressing the workers' compensation crisis requires the~~  
4 ~~efforts of all persons and entities involved and resolution of the~~  
5 ~~crisis is in the best interest of the public. Modification to the~~  
6 ~~rate system, alteration of the benefit structure, improvement of~~  
7 ~~current management practices and changes in perception must be~~  
8 ~~merged into a unified effort to make the workers' compensation~~  
9 ~~system viable and solvent through the mutualization of the system~~  
10 ~~and the opening of the market to private workers' compensation~~  
11 ~~insurance carriers. It was and remains the intent of the~~  
12 ~~Legislature that the amendments to this chapter enacted in the year~~  
13 ~~2003 be applied from the date upon which the enactment was made~~  
14 ~~effective by the Legislature. The Legislature finds that an~~  
15 ~~emergency exists as a result of the combined effect of this~~  
16 ~~deficit, other state budgetary deficits and liabilities and other~~  
17 ~~grave social and economic circumstances currently confronting the~~  
18 ~~state and that unless the changes provided by the enactment of the~~  
19 ~~amendments to this chapter, as well as other legislation designed~~  
20 ~~to address the problem are made effective immediately, the fiscal~~  
21 ~~stability of this state will suffer irreparable harm. Accordingly,~~  
22 ~~the Legislature finds that the need of the citizens of this state~~  
23 ~~for the protection of the State Treasury and the solvency of the~~  
24 ~~Workers' Compensation Funds requires the limitations on any~~  
25 ~~expectations that may have arisen from prior enactments of this~~  
26 ~~chapter. The Legislature finds that the Workers Compensation~~

1 deficit has been resolved and, therefore, the Legislature finds  
2 that West Virginia's labor force is its greatest asset and  
3 resource. The Legislature further finds that a worker injured  
4 during the course and as a result of his or her occupation should  
5 receive preeminent and efficient treatment to protect and preserve  
6 the state's greatest assets and resources.

7 (b) It is the further intent of the Legislature that this  
8 chapter be interpreted so as to assure the quick and efficient  
9 delivery of indemnity and medical benefits to injured workers at a  
10 reasonable cost to the employers who are subject to the provisions  
11 of this chapter. It is the specific intent of the Legislature that  
12 workers' compensation cases shall be decided on their merits and  
13 that a rule of "liberal construction" based on any "remedial" basis  
14 of workers' compensation legislation shall ~~not affect the weighing~~  
15 ~~of evidence in resolving such cases.~~ be applied. The workers'  
16 compensation system in this state is based on a mutual renunciation  
17 of common law rights and defenses by employers and employees alike.  
18 Employees' rights to sue for damages over and above medical and  
19 health care benefits and wage loss benefits are to a certain degree  
20 limited by the provisions of this chapter and employers' rights to  
21 raise common law defenses, such as lack of negligence, contributory  
22 negligence on the part of the employee, and others, are curtailed  
23 as well. Accordingly, the Legislature hereby declares that any  
24 remedial component of the workers' compensation laws is ~~not to~~  
25 ~~cause the workers' compensation laws~~ to receive liberal  
26 construction. ~~that alters in any way the proper weighing of~~

1 ~~evidence as required by section one g, article four of this~~  
2 ~~chapter.~~

3 (c) The "Workers' Compensation Division of the Bureau of  
4 Employment Programs" is, on or after October 1, 2003,  
5 reestablished, reconstituted and continued as the Workers'  
6 Compensation Commission, an agency of the state. The purpose of  
7 the commission is to ensure the fair, efficient and financially  
8 stable administration of the workers' compensation system of the  
9 State of West Virginia. The powers and duties heretofore imposed  
10 upon the Workers' Compensation Division and the Commissioner of the  
11 Bureau of Employment Programs as they relate to workers'  
12 compensation are hereby transferred to and imposed upon the  
13 Workers' Compensation Commission and its executive director in the  
14 manner prescribed by this chapter.

15 (d) It is the intent of the Legislature that the transfer of  
16 the administration of the workers' compensation system of this  
17 state from the Workers' Compensation Division under the  
18 Commissioner of the Bureau of Employment Programs to the Workers'  
19 Compensation Commission under its executive director and the  
20 workers' compensation board of managers is to become effective  
21 October 1, 2003. Any provisions of the enactment of Enrolled  
22 Senate Bill No. 2013 in the year 2003 relating to the transfer of  
23 the administration of the workers' compensation system of this  
24 state that conflict with the intent of the Legislature as described  
25 in this subsection shall, to that extent, become operative on  
26 October 1, 2003, and until that date, prior enactments of this code

1 in effect on the effective date of Enrolled Senate Bill No. 2013  
2 relating to the administration of the workers' compensation system  
3 of this state, whether amended and reenacted or repealed by the  
4 passage of Enrolled Senate Bill No. 2013, have full force and  
5 effect. All provisions of the enactment of Enrolled Senate Bill  
6 No. 2013 in the year 2003 relating to matters other than the  
7 transfer of the administration of the workers' compensation system  
8 of this state shall become operative on the effective date of that  
9 enactment, unless otherwise specifically provided in that  
10 enactment.

11 (e) It is the intent of the Legislature, expressed through its  
12 enactment of legislation, to transfer the regulation of the  
13 workers' compensation system to the Insurance Commissioner. By  
14 proclamation of the Governor, as authorized by article two-c of  
15 this chapter, the Workers' Compensation Commission was terminated  
16 on December 31, 2005. To further the transition from the state-  
17 operated workers' compensation system to a system of private  
18 insurance, the duties and responsibilities of the Workers'  
19 Compensation Commission and the board of managers, including, but  
20 not limited to, ratemaking and adjudication of claims now reside  
21 with the Insurance Commissioner.

NOTE: The purpose of this bill is to acknowledge that the deficit crisis is over. The bill recognizes that West Virginia's labor force is its greatest asset and resource. The bill states that injured workers should receive preeminent and efficient treatment. The bill states that it is the intent of the Legislature that a rule of "liberal construction" based on any "remedial" basis of workers' compensation legislation shall be

applied when deciding cases.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.