

FILED
APR 14 2001
THE OFFICE OF
SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 498

(By Senator Bracey, et al)

PASSED March 30, 2001

In Effect July 1, 2001 **Passage**

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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.

1 (a) The workers' compensation office of administrative
2 law judges previously created pursuant to chapter twelve,
3 acts of the Legislature, one thousand nine hundred ninety,
4 second extraordinary session, is hereby designated to be an
5 integral part of the workers' compensation system of this
6 state. The office of judges shall be under the supervision
7 of a chief administrative law judge who shall be appointed
8 by the governor, with the advice and consent of the Senate.
9 The previously appointed incumbent of that position who
10 was serving on the second day of February, one thousand
11 nine hundred ninety-five, shall continue to serve in that
12 capacity unless subsequently removed as provided for in
13 subsection (b) 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
16 and shall also have had at least four years of experience as
17 an attorney. The chief administrative law judge's salary
18 shall be set by the compensation programs performance
19 council created in section one, article three, chapter
20 twenty-one-a of this code. Said salary shall be within the
21 salary range for comparable chief administrative law
22 judges as determined by the state personnel board created
23 by section six, article six, chapter twenty-nine of said
24 code. The chief administrative law judge may only be
25 removed by a vote of two thirds of the members of the
26 compensation programs performance council and shall not
27 be removed except for official misconduct, incompetence,
28 neglect of duty, gross immorality or malfeasance and then
29 only after he or she has been presented in writing with the
30 reasons for his or her removal and is given opportunity to
31 respond and to present evidence. No other provision of
32 this code purporting to limit the term of office of any
33 appointed official or employee or affecting the removal of
34 any appointed official or employee shall be applicable to
35 the chief administrative law judge.

36 (c) By and with the consent of the commissioner, the
37 chief administrative law judge shall employ administrative

38 law judges and other personnel as are necessary for the
39 proper conduct of a system of administrative review of
40 orders issued by the workers' compensation division which
41 orders have been objected to by a party and all such
42 employees shall be in the classified service of the state.
43 Qualifications, compensation and personnel practice
44 relating to the employees of the office of judges, other than
45 the chief administrative law judge, shall be governed by
46 the provisions of the statutes, rules and regulations of the
47 classified service pursuant to article six, chapter
48 twenty-nine of this code. All such additional administra-
49 tive law judges shall be persons who have been admitted
50 to the practice of law in this state and shall also have had
51 at least two years of experience as an attorney. The chief
52 administrative law judge shall supervise the other admin-
53 istrative law judges and other personnel which collectively
54 shall be referred to in this chapter as the office of judges.

55 (d) The administrative expense of the office of judges
56 shall be included within the annual budget of the workers'
57 compensation division.

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

69 (f) The chief administrative law judge shall continue to
70 have the power to hear and determine all disputed claims
71 in accordance with the provisions of this article, establish
72 a procedure for the hearing of disputed claims, take oaths,
73 examine witnesses, issue subpoenas, establish the amount
74 of witness fees, keep such records and make such reports

75 as are necessary for disputed claims and exercise such
76 additional powers, including the delegation of such powers
77 to administrative law judges or hearing examiners as may
78 be necessary for the proper conduct of a system of admin-
79 istrative review of disputed claims. The chief administra-
80 tive law judge shall make such reports as may be requested
81 of him or her by the compensation programs performance
82 council.

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

1 The office of judges shall terminate on the first day of
2 July, two thousand three, pursuant to the provisions of
3 article ten, chapter four of this code unless sooner termi-
4 nated, continued or reestablished pursuant to the provi-
5 sions of that article.

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

[Signature]
.....
Chairman, Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate

To take effect July 1, 2001.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

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

[Signature]
.....
Governor

OFFICE WEST VIRGINIA
SECRETARY OF STATE
2001 APR 14 P 5:48



FILED

PRESENTED TO THE

GOVERNOR

Date

4/9/01

Time

2:15 pm