



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

1 ~~the Legislature finds that the need of the citizens of this state~~  
2 ~~for the protection of the State Treasury and the solvency of the~~  
3 ~~Workers' Compensation Funds requires the limitations on any~~  
4 ~~expectations that may have arisen from prior enactments of this~~  
5 ~~chapter.~~ The Legislature finds that the Workers' Compensation  
6 deficit has been resolved and, therefore, the Legislature finds  
7 that West Virginia's labor force is its greatest asset and  
8 resource. The Legislature further finds that a worker injured  
9 during the course and as a result of his or her occupation should  
10 receive preeminent and efficient treatment to protect and preserve  
11 the state's greatest assets and resources.

12 (b) It is the further intent of the Legislature that this  
13 chapter be interpreted so as to assure the quick and efficient  
14 delivery of indemnity and medical benefits to injured workers at a  
15 reasonable cost to the employers who are subject to the provisions  
16 of this chapter. It is the specific intent of the Legislature that  
17 workers' compensation cases shall be decided on their merits and  
18 that a rule of "liberal construction" based on any "remedial" basis  
19 of workers' compensation legislation shall ~~not affect the weighing~~  
20 ~~of evidence in resolving such cases.~~ be applied. The workers'  
21 compensation system in this state is based on a mutual renunciation  
22 of common law rights and defenses by employers and employees alike.  
23 Employees' rights to sue for damages over and above medical and  
24 health care benefits and wage loss benefits are to a certain degree

1 limited by the provisions of this chapter and employers' rights to  
2 raise common law defenses, such as lack of negligence, contributory  
3 negligence on the part of the employee, and others, are curtailed  
4 as well. Accordingly, the Legislature hereby declares that any  
5 remedial component of the workers' compensation laws is ~~not to~~  
6 ~~cause the workers' compensation laws~~ to receive liberal  
7 ~~construction. that alters in any way the proper weighing of~~  
8 ~~evidence as required by section one-g, article four of this~~  
9 ~~chapter.~~

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

22 (d) It is the intent of the Legislature that the transfer of  
23 the administration of the workers' compensation system of this  
24 state from the Workers' Compensation Division under the

1 Commissioner of the Bureau of Employment Programs to the Workers'  
2 Compensation Commission under its executive director and the  
3 workers' compensation board of managers is to become effective  
4 October 1, 2003. Any provisions of the enactment of Enrolled  
5 Senate Bill No. 2013 in the year 2003 relating to the transfer of  
6 the administration of the workers' compensation system of this  
7 state that conflict with the intent of the Legislature as described  
8 in this subsection shall, to that extent, become operative on  
9 October 1, 2003, and until that date, prior enactments of this code  
10 in effect on the effective date of Enrolled Senate Bill No. 2013  
11 relating to the administration of the workers' compensation system  
12 of this state, whether amended and reenacted or repealed by the  
13 passage of Enrolled Senate Bill No. 2013, have full force and  
14 effect. All provisions of the enactment of Enrolled Senate Bill  
15 No. 2013 in the year 2003 relating to matters other than the  
16 transfer of the administration of the workers' compensation system  
17 of this state shall become operative on the effective date of that  
18 enactment, unless otherwise specifically provided in that  
19 enactment.

20 (e) It is the intent of the Legislature, expressed through its  
21 enactment of legislation, to transfer the regulation of the  
22 workers' compensation system to the Insurance Commissioner. By  
23 proclamation of the Governor, as authorized by article two-c of  
24 this chapter, the Workers' Compensation Commission was terminated

1 on December 31, 2005. To further the transition from the  
2 state-operated workers' compensation system to a system of private  
3 insurance, the duties and responsibilities of the Workers'  
4 Compensation Commission and the board of managers, including, but  
5 not limited to, ratemaking and adjudication of claims now reside  
6 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.