

**Senate Bill No. 517**

(By Senator Yost)

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

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A BILL to amend and reenact §23-4-1g of the Code of West Virginia,  
1931, as amended, relating to weighing of evidence; and  
providing for a liberal weighing of the evidence during any  
part of a workers' compensation claim.

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

That §23-4-1g of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 4. DISABILITY AND DEATH BENEFITS.**

**§23-4-1g. Weighing of evidence.**

~~(a) For all awards made on or after the effective date of the  
amendment and reenactment of this section during the year 2003,  
resolution of any issue raised in administering this chapter shall  
be based on a weighing of all evidence pertaining to the issue and~~

~~1 a finding that a preponderance of the evidence supports the chosen  
2 manner of resolution. The process of weighing evidence shall  
3 include, but not be limited to, an assessment of the relevance,  
4 credibility, materiality and reliability that the evidence  
5 possesses in the context of the issue presented. Under no  
6 circumstances will an issue be resolved by allowing certain  
7 evidence to be dispositive simply because it is reliable and is  
8 most favorable to a party's interests or position. If, after  
9 weighing all of the evidence regarding an issue in which a claimant  
10 has an interest, there is a finding that an equal amount of  
11 evidentiary weight exists favoring conflicting matters for  
12 resolution, the resolution that is most consistent with the  
13 claimant's position will be adopted.~~

~~14 (b) Except as provided in subsection (a) of this section, a  
15 claim for compensation filed pursuant to this chapter must be  
16 decided on its merit and not according to any principle that  
17 requires statutes governing workers' compensation to be liberally  
18 construed because they are remedial in nature. No such principle  
19 may be used in the application of law to the facts of a case  
20 arising out of this chapter or in determining the Constitutionality  
21 of this chapter~~

22 A claim for compensation filed pursuant to this chapter must  
23 be decided on its merit and requires statutes governing workers'  
24 compensation to be liberally construed because they are remedial in

1 nature and therefore the claimant is entitled to the benefit of all  
2 reasonable inferences to be drawn therefrom in support of his or  
3 her claim.

NOTE: The purpose of this bill is to provide a liberal weighing of the evidence for workers's compensation claims during any part of the workers' compensation claim.

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