

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **Senate Bill 61**

**FISCAL  
NOTE**

BY SENATOR YOST

[Introduced January 13, 2016;

Referred to the Committee on Banking and Insurance;

then to the Committee on the Judiciary; and then to

the Committee on Finance.]

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

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

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

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

##### **§23-4-1g. Weighing of evidence.**

1 ~~(a) For all awards made on or after the effective date of the amendment and reenactment~~  
2 ~~of this section during the year 2003, resolution of any issue raised in administering this chapter~~  
3 ~~shall be based on a weighing of all evidence pertaining to the issue and a finding that a~~  
4 ~~preponderance of the evidence supports the chosen manner of resolution. The process of~~  
5 ~~weighing evidence shall include, but not be limited to, an assessment of the relevance, credibility,~~  
6 ~~materiality and reliability that the evidence possesses in the context of the issue presented. Under~~  
7 ~~no circumstances will an issue be resolved by allowing certain evidence to be dispositive simply~~  
8 ~~because it is reliable and is most favorable to a party's interests or position. If, after weighing all~~  
9 ~~of the evidence regarding an issue in which a claimant has an interest, there is a finding that an~~  
10 ~~equal amount of evidentiary weight exists favoring conflicting matters for resolution, the resolution~~  
11 ~~that is most consistent with the claimant's position will be adopted.~~

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

17 A claim for compensation filed pursuant to this chapter shall be decided on its merit.  
18 Because statutes governing workers' compensation are remedial in nature they shall be liberally  
19 construed during all stages of the claims process. Therefore, the claimant is entitled to the benefit

20 of all reasonable inferences to be drawn in support of his or her claim.

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

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