

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 63

**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 §23-4-6a of the Code of West Virginia, 1931, as amended, relating
 2 to workers' compensation benefits; and providing an award for occupational
 3 pneumoconiosis when there is a finding of no measurable pulmonary impairment.

Be it enacted by the Legislature of West Virginia:

1 That §23-4-6a of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-6a. Benefits and mode of payment to employees and dependents for occupational pneumoconiosis; further adjustment of claim for occupational pneumoconiosis.

1 If an employee is found to be permanently disabled due to occupational pneumoconiosis,
 2 as defined in section one of this article, the percentage of permanent disability is determined by
 3 the degree of medical impairment that is found by the Occupational Pneumoconiosis Board. The
 4 commission, successor to the commission, other private carrier or self-insured employer,
 5 whichever is applicable, shall enter an order setting forth the findings of the Occupational
 6 Pneumoconiosis Board with regard to whether the claimant has occupational pneumoconiosis
 7 and the degree of medical impairment, if any, resulting therefrom. That order is the final decision
 8 of the commission for purposes of section one, article five of this chapter. If a decision is objected
 9 to, the office of judges shall affirm the decision of the Occupational Pneumoconiosis Board made
 10 following hearing unless the decision is clearly wrong in view of the reliable, probative and
 11 substantial evidence on the whole record. Compensation is paid therefor in the same manner
 12 and at the same rate as is provided for permanent disability under the provisions of subdivisions
 13 (d), (e), (g), (h), (i), (j), (k), (m) and (n), section six of this article: *Provided, That for any employee*
 14 ~~who applies for occupational pneumoconiosis benefits whose award was granted on or after the~~
 15 ~~effective date of the amendment and reenactment of this section during the year two thousand~~
 16 ~~three, there shall be no permanent partial disability awarded based solely upon a diagnosis of~~
 17 ~~occupational pneumoconiosis, it being the intent of the Legislature to eliminate any permanent~~

18 ~~partial disability awards for occupational pneumoconiosis without a specific finding of measurable~~
19 ~~impairment~~ if it is determined by the division in accordance with the facts of the case and with the
20 advice and recommendation of the Occupational Pneumoconiosis Board that an employee has
21 occupational pneumoconiosis, but without measurable pulmonary impairment therefrom, the
22 employee shall be awarded and paid twenty weeks of benefits at the same benefits rate as
23 provided herein.

24 If the employee dies from occupational pneumoconiosis, the benefits shall be as provided
25 ~~for~~ in section ten of this article; as to the benefits, sections eleven to fourteen, inclusive, of this
26 article apply.

27 In cases of permanent disability or death due to occupational pneumoconiosis, as defined
28 in section one of this article, accompanied by active tuberculosis of the lungs, compensation shall
29 be payable as for disability or death due to occupational pneumoconiosis alone.

30 The provisions of section sixteen of this article and sections two, three, four and five, article
31 five of this chapter providing for the further adjustment of claims are applicable to the claim of any
32 claimant who receives a permanent partial disability award for occupational pneumoconiosis.

NOTE: The purpose of this bill is to provide an employee, without measurable pulmonary impairment, twenty weeks of benefits at the same benefits rate as otherwise provided in this section which is a five percent benefit.

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