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Newark, N.J.: The Commission, 1973
"Judicial Section....," pp. 56-57.

LAW

CHAPTER 313 LAWS OF N. J. 1973
APPROVED 12-18-73

[OFFICIAL COPY REPRINT]
SENATE, No. 1215

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 27, 1972

By Senator PARKER

Referred to Committee on Judiciary

AN ACT concerning workmen's compensation and amending
R. S. 34:15-49.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. R. S. 34:15-49 is amended to read as follows:

2 34:15-49. The Division of Workmen's Compensation shall have
3 the exclusive original jurisdiction of all claims for workmen's
4 compensation benefits under this chapter. The judges of the
5 Division of Workmen's Compensation shall hereinafter be ap-
6 pointed on a bipartisan basis by the Governor, with the advice
7 and consent of the Senate and shall serve during good behavior.
8 The **[salaries]** salary of the director of the division shall be
9 \$32,000.00 and the salary of the judges of compensation shall be
10 **[\$27,000.00]** ***[\$28,000.00]*** *\$29,500.00*. In addition to his salary,
11 a judge of compensation regularly assigned as a supervising judge
12 of compensation by the director shall receive additional compensa-
13 tion of \$1,500.00 per annum during the period of such assignment.
14 Judges of compensation shall not engage in the practice of law
15 and shall devote full time to their judicial duties.

1 2. This act shall take effect immediately.

is not enacted and is intended to be omitted in the law.
EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill

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SPONSORS STATEMENT

This bill amends the workmen's compensation law to allow the salary of the Director of the Division of Workmen's Compensation and the judges of compensation to be increased.

At present the salaries of the director and the judges of compensation are set at \$27,000.00 per annum. The director and the supervising judges should be allowed compensation beyond that paid to ordinary judges because of their supervising responsibility.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

[ASSEMBLY REPRINT]

SENATE, No. 1215

with Assembly amendment adopted November 12, 1973

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 27, 1972

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ASSEMBLY AMENDMENT TO
SENATE, No. 1215

—◆—
STATE OF NEW JERSEY
—◆—

ADOPTED NOVEMBER 12, 1973

Amend page 1, section 1, line 10, omit "\$28,000.00", insert
"\$29,500.00".

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1215

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 1973

At present, the director and the judges of the Division of Workmen's Compensation receive \$27,000.00 a year.

This bill would raise the director's salary to \$32,000.00 and the judge's salary to \$28,000.00. Judges assigned as supervisory judges would receive an extra \$1,500.00 per year while so assigned.

Judges of the juvenile and domestic relations courts and the county district courts presently receive \$34,000.00. Judges of the County Court and the Superior Court receive \$37,000.00, Associate Justices of the Supreme Court receive \$45,000.00 and the Chief Justice receives \$47,500.00.

FISCAL NOTE TO
SENATE, No. 1215

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 1973

Senate Bill No. 1215 increases the salaries of the Director of the Division of Workmen's Compensation and the Judges of Compensation.

The Department of Labor and Industry estimates that enactment of this legislation will increase State expenditures by \$24,438.00 during the period January 1 to June 30, 1973 and by \$48,875.00 in each of the fiscal years 1973-74 and 1974-75.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

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Newark, New Jersey

September 30, 1973



ity to order appropriate medical and rehabilitation care.

Also MARES may be asked to render an advisory opinion or to provide consultants on etiology and causation. The person who prepares the report should, of course, be subject to cross examination. If both parties agree, the issue of etiology and causation could be submitted to MARES for determination.

Furthermore, MARES should also review all matters connected with the practice of medicine before the Workmen's Compensation Division, and prescribe rules and regulations to govern the reporting of needed medical facts and impairment evaluation procedures not covered by the AMA Guides.

MARES should also recommend ways to maintain quality medical and rehabilitation treatment and related services at equitable prices. The supervisor of MARES should be a physician.

MARES should also contain additional personnel whose main function would be to insure that physical and vocational rehabilitation facilities are utilized and to maintain close liaison with the Workmen's Compensation Section of the Rehabilitation Commission.

F. Informal Hearing Section (IHS)

This Section's main function should be to evaluate administratively permanent impairment due to a work-related injury or disease. We recommend that in addition to assessing impairment, IHS duties should include processing uncontested requests for Second Injury Fund reimbursement, and other similar administrative problems.

In evaluating impairment, the MARES decision should be binding on the IHS hearing officer. If the hearing officer feels that the AMA Guides were applied improperly, or if the injured worker or employer submits a conflicting private physician's evaluation based on the AMA Guides or Division regulations, the hearing officer could return the matter to MARES for reconsideration. But, in the final analysis at the IHS level, after discussions and conferences between the hearing officer and the examining doctor, the doctor's decision should prevail.

The IHS award for permanent impairment benefits would be final and toll the statute of limitations, but should be subject to appeal to the Judicial Section

for a *de-novo* hearing. At the *de-novo* hearing, the MARES report should be part of the record and the State physician should be available for cross-examination. Either party should have the right to introduce additional testimony and evidence.

We also recommend that the hearing officials of IHS not be required to be lawyers, but that an appropriate pay structure should be established in view of the important functions to be performed by IHS. In most cases the IHS hearing official will be the first personal contact the injured worker has with the workmen's compensation system. The contact presents a good opportunity to check prior payments, medical care and rehabilitation and to evaluate the Division's early claim processing procedures.

The present hearing system has been described as a "circus or race track." We recommend that the officials conducting hearings within this section and the Judges of Compensation in the Judicial Section seek to develop a cordial and dignified atmosphere in which all persons are treated with dignity and concern. All hearings before the Division, should be conducted for the convenience of the worker as much as practical.

G. Judicial Section (JS)

The role of the Judicial Section should be to adjudicate all contested issues and determine wage loss benefits. It is readily acknowledged that there will be complicated disputes concerning causal relationships between the employment and the injury or disease and other difficult legal and medical problems. Accordingly, we recommend that all members of the Judicial Section be lawyers and be paid appropriate salaries.

The Commission considered the SCI findings, performed its own evaluation of the existing Judges of Compensation and evaluated the existing removal powers. We feel that a strong Director is a necessity and that he should have the power to prefer charges seeking removal of Judges of Compensation for misconduct in office, willful neglect of duty, incompetence, or other conduct evidencing unfitness for judicial office.

The Commissioner of Labor and Industry or his designee should conduct a hearing on the charges, with the Commissioner possessing power to suspend Judges of Compensation prior to the hearing. If the Commissioner of Labor and Industry finds beyond

a reasonable doubt he should remove the question.

We also feel the removal of Judges of Compensation is a demanding as the Commission to the State and Commission.

H. Safety and

This section should review safety programs and should report to do studies on the programs established by the State.

The Safety and Health Division should analyze and publish data on insurers' experience with prompt payments, and on the cost of medical and rehabilitation services. Wisconsin statistics. *The Practice Cases—Bulletin* New York publishes *Processing of Workmen's Compensation* page 44.

In accordance with the Commission Report, the Division, through the program to inform state workmen's

IV

According to the Commission, which we believe is a compensation program.

(1) The agency is active in administrative matters.

(2) The agency's performance and budget are reviewed and press for better results.

(3) The agency's obligation to the public is reviewed and receives every effort to improve.

(4) The agency's

a reasonable doubt that there is cause for removal, he should remove the Judge of Compensation in question.

We also feel that the qualifications for appointment of Judges of Compensation should be just as demanding as those for the appointment of Judges to the State and County Courts.

H. Safety and Evaluation Section (SES)

This section should be the prime initiator of safety programs and should have adequate statistical support to do studies and evaluate other programs established by the Division.

The Safety and Evaluation Section should collect, analyze and publish a broad range of performance data on insurers and self-insurers, including information on promptness, accuracy, and sufficiency of payments, and on adequacy of safety, medical care and rehabilitation programs. For example, Michigan and Wisconsin publish lists of prompt payment statistics. *The Processing of Workmen's Compensation Cases*—Bulletin 310, at page 43 (1967), and New York publishes a carrier performance table. *The Processing of Workmen's Compensation Cases*, at page 44.

In accordance with R. 6.8 of the National Commission Report, the Workmen's Compensation Division, through the SES, should develop a continuing program to inform employees and employers about state workmen's compensation and the need to insure.

They should maintain insurance carrier and self-insurer records and frequently check their lists against other available sources such as Unemployment Compensation, Sales Tax Bureau and U.S. Internal Revenue Service to confirm coverage and prevent the existence of uninsured employers.

This section should also include a penalty enforcement component, perhaps headed by a lawyer, to institute the necessary proceedings to collect penalties and fines, to compel insurance, or to protect employees who are discriminated against for filing a workmen's compensation claim.

I. Administrative Support

Lack of administrative support for the various Division's activities has been a frequent complaint pressed before the Commission. Obviously, in order to perform its important new functions each section as specified above will require adequate administrative support, with the precise needs established by the Director in a budget to be submitted to the legislature for approval.

Additionally, we concur with the National Commission's recommendation that so "far as practical, all employees of the agency should be full time, with no outside employment" and should receive commensurate salaries. However, in order to obtain highly qualified doctors, it may prove necessary to permit non-conflicting employment outside of normal working hours.

IV. Processing Claims Under the New Structure

According to the Report of the National Commission, which we support, a modern workmen's compensation program must meet six obligations:

- (1) The agency must be active and take the initiative in administration of the law,
- (2) The agency must continually review its performance and be willing to change its own procedures and press for legislative modifications when needed,
- (3) The agency must advise workers of their rights and obligations to insure that the injured worker receives everything to which the law entitles him,
- (4) The agency should inform all other persons

operating within the system, including employers, carriers, physicians and attorneys of their obligations, rights and privileges,

(5) The agency should assist in voluntary and informal resolution of issues and

(6) The agency must adjudicate claims which cannot be resolved voluntarily.

In order to understand better how the new structure will operate we are analyzing in some detail the recommended procedural functions of the Division beginning with the first report of injury or disease. However, we recommend that in order to insure that