

— AN ACT —

TO AID IN THE

Prevention and Settlement of

Strikes and Lockouts



PROPOSED BY

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The Executive Council, West Virginia Board of Trade

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AN ACT

To Aid in the Prevention and Settlement of Strikes and Lockouts.

Be it enacted by the Legislature of West Virginia :

1. This Act may be cited as the Industrial Disputes Investigation Act, 1913. Short Title.

PRELIMINARY.

Interpretation.

2. In this Act, unless the context otherwise requires (a) "Governor" means the Governor of the State; (b) "Employer" means: "Governor."

1. Any person, firm or corporation employing ten or more persons and owning or operating any agency of transportation or communication, or public service utility, including, except as hereinafter provided, railways, whether operated by steam, electricity or other motive power, steamboats, telegraph and telephone lines, gas, electric light, water and power works; "Employer."

2. Any person, firm or corporation employing fifty or more persons, and owning or operating or carrying any mine, manufactory or other industry or business. ou

(c) "Employee" means any person employed by an employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry or business to which this Act applies; "Employee."

(d) "Dispute" or "industrial dispute" means any dispute or difference between an employer and one or more of his employees, as to matters or things affecting or relating to work done or to be done by him or them, or as to the privileges, rights or duties of employers or employees (not involving any such violation thereof as constitutes an indictable offense); and includes all matters relating to— "Dispute,"
"Industrial
Dispute."

(1) The wages (allowance) or other remuneration of employees, or the price paid or to be paid in respect of employment;

(2) The hours of employment, sex, age, qualification or status of employees, and the mode, terms and conditions of employment;

(3) Materials supplied and alleged to be had, unfit or unsuitable, or damage alleged to have been done to work;

(4) Any established custom or usage, either generally or in the particular district affected;

(5) The interpretation of an agreement or a clause thereof;

“Lockout.”

(f) “Lockout” means a closing of a place of employment, or a suspension of work, or a refusal by an employer to continue to employ any number of his employees in consequence of a dispute, done with a view to compelling his employees, or to aid another employer to compelling his employees, to accept terms of employment; **the discharge of one or more employees for reasons deemed by the employer to be for the good of the service or other personal reasons shall not be within the meaning of the word.**

“Strike.”

(g) “Strike” or “to go on strike” means the cessation of work by a body of employees acting in combination, or a concerted refusal or a refusal under a common understanding of any number of employees to continue to work for an employer, in consequence of a dispute, done as a means of compelling their employer, or to aid other employees in compelling their employer, to accept terms of employment; the cessation of work by an employee, who leaves the premises of the employer, if resident thereon, to enter upon employment which he prefers elsewhere, or for other personal reasons shall not be within the meaning of the words;

“Board.”

(h) “Board” means a Board of Conciliation and Investigation established under the provisions of this Act;

“Application.”

(i) “Application” means an application for the appointment of a Board under the provisions of this Act;

“Registrar.”

(j) “Registrar” means the Registrar of Boards of Conciliation and Investigation under this Act;

“Prescribed.”

(k) “Prescribed” means prescribed by this Act, or by any rules or regulations made thereunder;

“Trade Union.”

(l) “Trade union” or “union” means any organization of employees formed for the purpose of regulating relations between employers and employees.

ADMINISTRATION.

Governor to administer Act.

3. The Governor shall have the general administration of this Act.

4. The Governor shall appoint a Registrar of Boards

of Conciliation and Investigation, who shall have the powers and perform the duties prescribed.

2. The office of Registrar may be held either separately or in conjunction with any other office in the public service, and in the latter case the Registrar may, if the Governor thinks fit, be appointed, not by name, but by reference to such other office, whereupon the person who for the time being holds such office, or performs its duties, shall by virtue thereof be the Registrar.

BOARDS OF CONCILIATION AND INVESTIGATION.

Constitution of Boards.

5. Whenever any dispute exists between an employer and any of his employees, and the parties thereto are unable to adjust it, either of the parties to the dispute may make application to the Governor for the appointment of a Board of Conciliation and Investigation, to which Board the dispute may be referred under the provisions of this Act.

Reference of disputes to Boards of Conciliation and Investigation.

6. Whenever, under this Act, an application in due form for the appointment of a Board of Conciliation and Investigation, the Governor, whose decision for such purpose shall be final, shall, within fifteen days from the date at which the application is received, establish such Board, if satisfied that the provisions of this Act apply.

Governor to appoint Boards on application.

7. Every Board shall consist of three members who shall be appointed by the Governor.

Members of Boards.

2. Of the three members of the Board one shall be appointed on the recommendation of the employer and one on the recommendation of the employees (the parties to the dispute) and the third on the recommendation of the members so chosen.

8. For the purpose of appointment of the members of the Board, the following provisions shall apply:—

Procedure for appointment of members of Board.

1. Each party to the dispute may, at the time of making application or within five days after being requested so to do by the Governor, recommend the name of one person who is willing and ready to act as a member of the Board, and the Governor shall appoint such person a member of the Board.

2. If either of the parties fails or neglects to duly make any recommendation within the said period, or such extension thereof as the Governor, on cause shown, grants, the Governor shall, as soon thereafter as possible, appoint a fit person to be a member of the Board; and such member shall be deemed to be appointed on the recommendation of the said party.

3. The members chosen on the recommendation of the parties may, within five days after their appointment, recommend the name of one person who is willing and ready to act as a third member of the Board, and the Governor shall appoint such person a member of the Board.

4. If the members chosen on the recommendation of the parties fail or neglect to make any recommendation within the said period, or such extension thereof as the Governor, on cause shown, grants, the Governor shall, as soon thereafter as possible, appoint a fit person to be a third member of the Board, and such member shall be deemed to be appointed on the recommendation of the two members of the Board.

5. The third member shall be the Chairman of the Board.

Notifications to be given parties of members of Board.

9. As soon as possible after the full Board has been appointed by the Governor, the Registrar shall notify the parties of the names of the members of the Board and the chairman thereof, and such notification shall be final and conclusive for all purposes.

Term of office.

10. Every member of a Board shall hold office from the time of his appointment until the report of the Board is signed and transmitted to the Governor.

Members not to have pecuniary interest.

11. No person shall act as a member of a Board who has any direct pecuniary interest in the issue of a dispute referred to such Board.

How vacancy to be filled.

12. Every vacancy in the membership of a Board shall be supplied in the same manner as in the case of the original appointment of every person appointed.

Oath of office and secrecy.

13. Before entering upon the exercise of the functions of their office the members of a Board, including the chairman, shall make oath or affirmation before a justice of the peace or other person authorized to administer an oath or affirmation that they will faithfully and impartially perform the duties of their office, and also that, except in the discharge of their duties, they will not disclose to any person any of the evidence or other matter brought before the Board.

Clerical and other assistance.

14. The Board **may employ** a secretary, stenographer, or such other clerical assistance as to the **Governor** appears necessary for the efficient carrying out of the provisions of this Act.

Procedure for Reference of Disputes to Boards.

Manner in which applications to be made.

15. For the purpose of determining the manner in which, and the persons by whom, an application for the

appointment of a Board is to be made, the following provisions shall apply:—

1. The application shall be made in writing in the prescribed form, and shall be in substance a request to the Governor, to appoint a Board to which the existing dispute may be referred under the provisions of this Act.

2. The application shall be accompanied by—

(a) A statement setting forth—

(1) the parties to the dispute;

(2) the nature and cause of the dispute, including any claims or demands made by either party upon the other, to which exception is taken;

(3) an appropriate estimate of the number of persons affected or likely to be affected by the dispute;

(4) the efforts made by the parties themselves to adjust the dispute:
and—

(b) a declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the Governor to a Board, to the best of the knowledge and belief of the declarant a lockout or strike will be declared, that the dispute has been the subject of negotiations between the employees affected or their authorized representatives and the employer, that all efforts to obtain a satisfactory settlement have failed, and that there is no reasonable hope of securing a settlement by further negotiations.

Declaration
to accompany
application
for appointment
of Board.

3. The application may mention the name of a person who is willing and ready and desires to act as a member of the Board representing the party or parties making the application.

16. The application and the declaration accompanying it—

Signatures
to application.

(1) if made by an employer, or incorporated company or corporation, shall be signed by someone of its duly authorized managers or other principal executive officers;

(2) if made by an employer other than an incorporated company or corporation, shall be signed by the employer himself in case he is an individual, or a majority of the partners or members in case of a partnership firm or association;

(3) if made by the employees members of a trade union, shall be signed by two of its officers duly authorized by a majority vote of the members of the union, or by a vote taken by ballot of the members of the union present at a meeting called on not less than three days'

notice for the purpose of discussing the question; or, where a dispute directly affects employees of two or more employers, and such employees are members of a trade union having a general committee, **or other officers**, authorized to carry on negotiations in disputes between employers and employees, and so recognized by the employers, may be signed by the chairman or president and by the secretary of the said committee, or by such other officers.

(4) if made by employees some or all of whom are not members of a trade union shall be signed by one of their number duly authorized by a majority vote taken by ballot of the employees present at a meeting called on not less than three days' notice for the purpose of discussing the question.

Application to be transmitted by registered letter.

17. Every application for the appointment of a Board shall be transmitted by post by registered letter addressed to the Registrar of Boards of Conciliation and Investigation, Charleston, and the date of the receipt of such registered letter by the Registrar shall be regarded as the date of the receipt of such application.

Party making application to transmit copy to other party to dispute.

18. In every case where an application is made for the appointment of a Board the party making the application shall, at the time of transmitting it to the Registrar, also transmit by registered letter to the other party or parties to the dispute, or by personal delivery, a copy of the application and of the accompanying statement and declaration.

Statement in reply to be made and sent to Registrar and to party making application.

19. Upon receipt by either party to a dispute of a copy of the application for the appointment of a Board such party shall, without delay, prepare a statement in reply to the application and transmit it by registered letter, or by personal delivery, to the Registrar, and to the party making application.

To whom communications transmitting copies of applications and replies between parties are to be sent.

20. Copies of applications to be transmitted to the other party under any of the preceding sections where the party is—

(1) an employer, an incorporated company or corporation, shall be sent to the **president** or other principal executive officer of the company or corporation, **if a resident of West Virginia, otherwise to the resident general manager, general superintendent, manager or superintendent.**

(2) an employer other than an incorporated company or corporation, shall be sent to the employer himself or to the employer in the name of the business or firm as commonly known;

(3) composed of employees, members of trade union, shall be sent to the president and secretary of such union;

or where a dispute directly affects employees of two or more employers and such employees are members of a trade union having a general committee or other officers authorized to carry on negotiations in disputes between employers and employees, and so recognized by the employers, the application, if a joint one of two or more employers, may be sent to such committee or other officers.

(4) composed of employees some or all of whom are not members of a trade union,—

(a) Where some of the employees are members of a trade union, shall be sent to the president and secretary of the union as representing the employees belonging to the union; also

(b) Where some of the employees are not members of a trade union and there are no persons authorized to represent such employees, shall be sent to ten of their number.

Copies of statements in reply to applications shall in all cases be sent to the person or persons signing the applications, whose address or addresses shall be given therein, or to such person or persons as may be designated and an address given for this purpose in an application.

Functions, Powers and Procedure of Boards.

21. Any dispute may be referred to a Board by application in that behalf made in due form by any party thereto; provided that no dispute shall be the subject of reference to a Board under this Act in any case in which the employees affected by the dispute are fewer than ten of each employer concerned, in case the employer be a person, firm or corporation owning or operating any agency or transportation or communication or public service utility, or fewer than twenty-five of each employer concerned if the employer be any other employer within the purview of this Act.

Jurisdiction.

22. Upon the appointment of the Board the Registrar shall forward to the chairman a copy of the application for the appointment of such Board, and of its accompanying statement and declaration, and of the statement in reply, and the Board shall forthwith proceed to deal with the matters referred to in these documents.

Method of referring disputes to Board.

23. In every case where a dispute is duly referred to a Board it shall be the duty of the Board to endeavor to bring about a settlement of the dispute, and to this end the Board shall, in such manner as it thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits thereof and the right settlement thereof. In the course of such inquiry the Board

Duties of Board.

may make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period the Board thinks reasonable to allow the parties to agree upon terms of settlement.

Where settlement effected, memorandum of same with report to be forwarded to Governor.

24. If a settlement of the dispute is arrived at by the parties during the course of its reference to the Board, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and shall, if the parties so agree, be binding as if made a recommendation by the Board under Section 61 of this Act, and a copy thereof with a report upon the proceedings shall be forwarded to the Governor.

Where settlement not effected, Board to make report with recommendations.

25. If a settlement of the dispute is not arrived at during the course of its reference to the Board, the Board shall make a full report thereof to the **Governor**, which report shall set forth the various proceedings and steps taken by the Board for the purpose of fully and carefully ascertaining all the facts and circumstances, and shall also set forth such facts and circumstances and its findings therefrom, including the cause of the dispute and the Board's recommendation for the settlement of the dispute according to the merits and substantial justice of the case.

Form in which recommendations shall be made.

26. The Board's recommendation shall deal with each item of the dispute and shall state in plain terms, and avoiding as far as possible all technicalities, what in the Board's opinion ought or ought not to be done by the respective parties concerned. Wherever it appears to the Board expedient to do so, its recommendations shall also state the period during which the proposed settlement should continue in force, and the date from which it should commence.

Report and recommendations to be made to the Governor in writing.

27. The Board's report and recommendation shall be made to the Governor in writing, and shall be signed by such of the members as concur therein, and shall be transmitted by the chairman by registered letter to the Registrar as soon as practicable after the reference of the dispute to the Board; and in the same manner a minority report may be made by any dissenting member of the Board.

Filing and distribution of report.

28. Upon receipt of the Board's report the Governor shall forthwith cause the report to be filed in the office of the Registrar and a copy thereof to be sent free of charge to the parties to the dispute, and to the representatives of any newspaper published in West Virginia who applies therefor, and the Governor may distribute copies of the report, and of any minority report, in such manner as to

him seems most desirable as a means of securing a compliance with the Board's recommendation. The Registrar shall, upon application, supply certified copies for a prescribed fee, to persons other than those mentioned in this section.

29. For the information of the legislature and the public, the report and recommendation of the Board, and any minority report, shall be included in an annual report of the Registrar to the Governor.

Publication of report.

30. For the purpose of its inquiry the Board shall have all the powers of summoning before it, and enforcing the attendance of witnesses, of administering oaths, and of requiring witnesses to give evidence on oath or on solemn affirmation (if they are persons entitled to affirm in civil matters) and to produce such books, papers or other documents or things as the Board deems requisite to the full investigation of the matters into which it is inquiring, as is vested in any court of record in civil cases.

Powers of Board to summon witnesses and produce testimony and production of documents.

2. Any member of the Board may administer an oath, and the Board may accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

31. The summons shall be in the prescribed form, and may require any person to produce before the Board any books, papers or other documents or things in his possession or under his control in any way relating to the proceedings.

Form of summons.

32. All books, papers and other documents or things produced before the Board, whether voluntarily or in pursuance to summons, may be inspected by the Board, and also by such parties as the Board allows; but the information obtained therefrom shall not, except insofar as the Board deems it expedient, be made public, and such parts of the books, papers or other documents as in the opinion of the Board do not relate to the matter at issue may be sealed up.

Documents not to be made public.

33. Any party to the proceedings shall be competent and may be compelled to give evidence as a witness.

Parties may be compelled to be witnesses.

34. Every person who is summoned and duly attends as a witness shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil suits in the circuit courts.

Allowance to witnesses.

35. Where a reference has been made to the Board of a dispute between a railway company and its employees, any witnesses summoned by the Board in connection with the dispute and coming from any point in West Virginia shall be entitled to free transportation over any railway en route when proceeding to the place of meeting of the

Witnesses in railway disputes to be entitled to free transportation.

Board and thereafter returning to his home, and the Board shall furnish to such witnesses a proper certificate evidencing their right to such free transportation.

Penalty for failure to obey summons.

36. If any person who has been duly served with such summons and to whom at the same time payment or tender has been made of his reasonable traveling expenses according to the aforesaid scale, fails to duly attend or to duly produce any book, paper or other document or thing as required by his summon, he shall be guilty of a **misdemeanor and fined** not exceeding one hundred dollars, unless he shows that there was good and sufficient cause for such failure.

Contempt of the Board.

37. If, in any proceedings before the Board, any person wilfully insults any member of the Board or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the Board, any officer of the Board or **person or persons designated by the Board or a majority thereof**, or any constable may take the person offending into custody and remove him from the precincts of the Board, to be detained in custody until the rising of the Board, and the person so offending **shall be guilty of a misdemeanor and fined not exceeding one hundred dollars.**

View by direction of Board.

38. The Board, or any member thereof, and, on being authorized in writing by the Board, any other person, may without any other warrant than this Act, at any time, enter any building, mine, mine workings, boat, vessel, factory, workshop, place or premises of any kind, wherein, or in respect of which, any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking place or has taken place, which has been made the subject of a reference to the Board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon such building, mine, mine working, ship, vessel, factory, workshop, place or premises, as aforesaid, in respect of or in relation to any matter or thing hereinbefore mentioned, and any person who hinders or obstructs the Board or any such person authorized as aforesaid, in the exercise of any power conferred by this section, shall be guilty of a misdemeanor and fined not exceeding one hundred dollars.

Power to interrogate; examination factories, &c. Inspection of work.

How parties may be represented before Board.

39. Any party to a reference may be represented before the Board by three or less than three persons designated for the purpose, or by counsel where allowed as hereinafter provided.

Parties to be bound by acts of representatives.

40. Each party appearing by a representative shall be bound by the acts of such representative.

41. No counsel shall be entitled to appear or be heard before the Board, except with the consent of the parties to the dispute, and notwithstanding such consent the Board may decline to allow counsel to appear.

Counsel excluded except by consent of parties and of Board.

42. Persons other than citizens of West Virginia shall not be allowed to act as members of a Board.

Members of Board to be citizens.

43. If, without any good cause shown, any party to proceedings before the Board fails to attend or to be represented, the Board may proceed as if he had duly attended or had been represented.

Presence of parties.

44. The sittings of the Board shall be held at such time and place as are from time to time fixed by the chairman, after consultation with the other members of the Board, and the parties shall be notified by the chairman as to the time and place at which sittings are to be held; provided that, so far as practicable, the Board shall sit in or **conveniently near** to the locality within which the subject-matter of the proceedings before it arose.

Time and place of sittings of Board.

45. The proceedings of the Board shall be conducted in public; provided that at any such proceedings before it, the Board, on its own motion, or on the application of any of the parties, may direct that the proceedings shall be conducted in private, and that all persons other than the parties, their representatives, the officers of the Board and the witnesses under examination shall withdraw.

Proceedings to be public unless otherwise determined by Board.

46. The decision of the majority of the members present at a sitting of the Board shall be the decision of the Board, and the findings and recommendations of the majority of its members shall be those of the Board.

Majority of Board.

47. The presence of the chairman and at least one other member of the Board shall be necessary to constitute a sitting of the Board.

Quorum.

48. In case of the absence of any one member from a meeting of the Board the other two members shall not proceed, unless it is shown that the third member has been notified of the meeting in ample time to admit of his attendance.

All members of Board to be present.

2. If any member of the Board dies, or becomes incapacitated or refuses or neglects to act, his successor shall be appointed in the manner provided with respect to the original member of the Board.

49. The Board may at any time dismiss any matter referred to it which it thinks frivolous or trivial.

Trivial matters.

50. The Board may, with the consent of the Governor, employ competent experts or assessors to examine the books or official reports of either party, and to advise it

Employment of experts.

upon any technical or other matter material to the investigation, but shall not disclose such reports or the results of such inspection or examination under this section without the consent of both of the parties to the dispute.

Remuneration and Expenses of Board.

Remuneration
of members
of Board.

51. The members of a Board shall be remunerated for their services as follows:—

(a) To members other than the chairman, an allowance of five dollars per day for a time not exceeding three days during which the members may be actually engaged in selecting a third member of the Board;

(b) to each member of the Board, including the chairman, an allowance at the rate of twenty dollars for each day's sittings of the Board and for each day necessarily engaged in traveling from or to his place of residence to attend or after attending a meeting of the Board.

Acceptance of
gratuities and
perquisites
by members a
misdemeanor.

52. No member of the Board shall accept in addition to his salary as a member of the Board any perquisite or gratuity of any kind, from any corporation, association, partnership or individual in any way interested in any matter or thing before or about to be brought before the Board in accordance with the provisions of this Act. If any such perquisite or gratuity **be accepted** by any member of the Board such member **shall be guilty of a misdemeanor and fined** not exceeding one thousand dollars.

Actual travel-
ing expenses
of members
allowed.

53. Each member of the Board will be entitled to his actual necessary traveling expenses for each day that he is engaged in traveling from or to his place of residence for the purpose of attending or after having attended a meeting of the Board.

Payment of
expenses
of Board.

54. All expenses of the Board, including expenses for transportation incurred by the members thereof or by persons under its order in making investigations under this Act, salaries of employees and agents, and fees and mileage to witnesses shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the Board, which vouchers shall be forwarded by the chairman to the Governor. The chairman shall also forward to the Governor a certified and detailed statement of the sittings of the Board, and of the members present at such sittings.

DUTIES OF THE REGISTRAR.

55. It shall be the duty of the Registrar:—

To receive
and deal with
applications.

(a) to receive and register, and, subject to the provisions of this Act, to deal with all applications by em-

ployers or employees for a reference of any dispute to a Board, and to at once bring to the Governor's attention every such application;

(b) to conduct such correspondence with the parties and members of Boards as may be necessary to constitute any Board as speedily as possible in accordance with the provisions of this Act;

Assistance in constituting Boards.

(c) to receive and file all reports and recommendations of Boards, and conduct such correspondence and do such things as may assist in rendering effective the recommendations of the Board in accordance with the provisions of this Act;

Assist in giving effect to recommendations of Board.

(d) to keep a register in which shall be entered the particulars of all applications, reference, reports and recommendations relating to the appointment of a Board, and its proceedings; and to safely keep all applications, statements, reports, recommendations and other documents relating to proceedings before the Board, and, when so required, transmit all or any of such to the Governor;

Register particulars of proceedings before Boards and safeguard all documents relating to proceedings.

(e) to supply to any parties, on request, information as to this Act, or any regulations or proceedings thereunder; and also to furnish parties to a dispute and members of the Board with necessary blank forms, forms of summons or other papers or documents required in connection with the effective carrying out of the provisions of this Act;

Supply information and necessary forms relating to proceedings before Board.

(f) generally, to do all such things and take all such proceedings as may be required in the performance of his duties prescribed under this Act or any regulations thereunder.

Generally.

STRIKES AND LOCKOUTS PRIOR TO AND PENDING A REFERENCE TO A BOARD ILLEGAL.

56. It shall be unlawful for an employer to declare or cause a lockout, or for any employee to go on strike, on account of any dispute prior to or during a reference of such dispute to a Board of Conciliation and Investigation under the provisions of this Act: Provided, that nothing in this Act shall prohibit the suspension or discontinuance of any industry or of the working of any persons therein for any cause not constituting a lockout or strike; provided also, that, except where the parties have entered into an agreement under Section 61 of this Act, nothing in this Act shall be held to restrain any employer from declaring a lockout, or any employee from going on strike in respect of any dispute which has been duly referred to a Board and which has been dealt with under Sections 24 or 25 of this Act.

Prohibition of strikes or lockouts prior to or pending reference to a Board.

Relation of parties to remain unchanged pending proceedings before a Board

57. Employers and employees shall give at least thirty days' notice of an intended change affecting conditions of employment with respect to wages and hours; and in the event of such intended change resulting in a dispute, until the dispute has been finally dealt with by a Board, neither of the parties affected shall alter the conditions of employment with respect to wages or hours, or on account of the dispute do or be concerned in doing, directly or indirectly, anything in the nature of a lockout or strike, or a suspension or discontinuance of employment or work, but the relationship of employer and employee shall continue uninterrupted by the dispute, or anything arising out of the dispute; but if, in the opinion of the Board, either party uses this or any other provision of this Act for the purpose of unjustly maintaining a given condition of affairs through delay, and the Board so reports to the Governor, such party shall be guilty of a misdemeanor and fined as provided for a violation of the next preceding section.

Penalty for causing lockout.

58. Any employer declaring or causing a lockout contrary to the provisions of this Act shall be guilty of a misdemeanor and fined not less than one hundred dollars nor more than one thousand dollars for each day or part of a day that such lockout exists.

Penalty for going on strike.

59. Any employee who goes on strike contrary to the provisions of this Act shall be guilty of a misdemeanor and fined not less than ten dollars nor more than fifty dollars, for each day or part of a day that such employee is on strike.

60. Any person who incites, encourages or aids in any manner any employer to declare or continue a lockout, or any employee to go on or continue on strike contrary to the provisions of this Act, shall be guilty of a misdemeanor and fined not less than fifty dollars nor more than one thousand dollars.

SPECIAL PROVISIONS.

Recommendation of a Board binding in certain cases.

61. Either party to a dispute which may be referred under this Act to a Board may agree in writing at any time before or after the Board has made its report and recommendation, to be bound by the recommendation of the Board in the same manner as parties are bound upon an award made pursuant to a reference to arbitration on the order of a court of record; every agreement so to be bound made by one party shall be forwarded to the Registrar who shall communicate it to the other party, and if the other party agrees in like manner to be bound by the recommendation of the Board, then the recommendation shall be made a rule of court on the application of

either party and shall be enforceable in like manner as other awards of arbitrators.

MISCELLANEOUS.

62. No court of West Virginia shall have power or jurisdiction to recognize or enforce, or to receive in evidence any report of a Board, or any testimony or proceedings before a Board, as against any person or for any purpose, except as hereinbefore provided and except in the case of prosecution of such person for perjury.

Courts not to recognize reports of or testimony before a Board except in prosecutions for perjury as provided.

63. No proceedings under this Act shall be deemed invalid by reason of any defect of form or any technical irregularity.

Technicality not to invalidate proceedings.

64. The Governor shall determine the allowance or amounts to be paid all persons other than the members of a Board, employed by the Governor or any Board, including the Registrar, secretaries, clerks, experts, stenographers or other persons performing any services under the provisions of this Act.

65. In case of prosecutions under this Act, whether a conviction is or is not obtained, it shall be the duty of the clerk of the court before which any such prosecution takes place to briefly report the particulars of such prosecution to the Registrar within thirty days after it has been determined, and such clerk shall be entitled to a prescribed fee in payment of his services.

Prosecutions under Act to be reported to Registrar.

66. The Governor may make regulations as to the time within which anything hereby authorized shall be done, and also as to any other matter or thing which appears to him necessary or advisable to the effectual working of the several provisions of this Act. All such regulations shall go into force on the day of the publication thereof in any newspaper published in the city of Charleston, and they shall be laid before the legislature within fifteen days after such publication, or, if the legislature is not then in session, within fifteen days after the opening of the next session thereof.

Governor may make, alter and amend regulations.

67. All charges and expenses incurred in connection with the administration of this Act shall be defrayed out of such appropriations as are made by the legislature for that purpose.

Expenses.

68. A report with respect to the matters transacted by him under this Act shall be made by the Governor to the legislature and shall be laid before the legislature within the first fifteen days of each session thereof.

Report to legislature.

