

1995 SESSION

HOUSE SUBSTITUTE

LD5751492

HOUSE BILL NO. 1589

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 1, 1995)

(Patron Prior to Substitute—Delegate Woodrum)

A BILL for the relief of Kathy W. Mundy.

Whereas, Kathy W. Mundy, 39 years old, has been employed by the State Corporation Commission's Bureau of Financial Institutions as an assistant bank examiner for over seven years; and

Whereas, Kathy W. Mundy sustained serious and permanent injuries to her cervical and lumbar regions in an automobile accident on November 15, 1988, while on official business for the Commonwealth; and

Whereas, the prognosis is that continued treatment will be needed to treat recurrent pain; and

Whereas, Ms. Mundy reported her accident to her employer, the State Corporation Commission ("SCC"), on the day it occurred; and

Whereas, Ms. Mundy's disability requires medical treatment with a chiropractor, the cost of which was, at least initially, paid by the employer's servicing agency in full; and

Whereas, because of those payments, Ms. Mundy believed that her claim was established and did not realize that filing a claim with the Workers Compensation Commission ("the Commission") was required under the law; and

Whereas, after the servicing agency stopped paying the chiropractor's charges during the latter part of 1991, Ms. Mundy contacted the servicing agency and was informed that because the statute of limitations had expired on filing a claim with the Commission, no further bills would be paid; and

Whereas, Ms. Mundy's claim and subsequent appeal to the Commission were denied on the grounds that its authority to grant relief is jurisdictional under Virginia Code § 65.2-601, which states that a claimant's right to compensation is forever barred unless the claim is filed with the Commission within two years after the accident; and

Whereas, to address inequities in cases such as this, the General Assembly amended the law, effective July 1, 1991, to provide that the statute of limitations would be tolled until the employer filed its first report of accident; and

Whereas, the SCC filed an accident report on November 30, 1988, with Gates McDonald, agent for the Commonwealth in workers' compensation claims; and

Whereas, the agent, Gates McDonald, did not notify the Workers' Compensation Commission in a timely manner; and

Whereas, had the first report of accident been filed in a timely manner, the Commission would have furnished a copy of a workers' compensation guide to Ms. Mundy, as required by § 65.2-201 D of the Code, giving her notice of all her rights and responsibilities under the Workers' Compensation Act, including the statute of limitations period; and

Whereas, Ms. Mundy has incurred \$3,316.23 in medical costs which are not covered by the Commonwealth's medical insurance plan; and

Whereas, Ms. Mundy's actuarial life expectancy is estimated to be 80 years, and it is estimated that she will spend approximately \$1000 annually for medical treatment of her injuries sustained in the work accident, provided no additional injuries occur; and

Whereas, the present value of 40 annual payments of \$1000 at eight percent interest is \$13,765.85; and

Whereas, Kathy W. Mundy has no other means to obtain relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. That there is hereby appropriated from the Department of General Services, Division of Risk Management Fund, the sum of \$17,082 for the relief of Kathy W. Mundy to be paid by check issued by the State Treasurer on warrant of the Comptroller to Kathy W. Mundy upon a release by her of all claims against the Commonwealth and its political subdivisions, agencies, instrumentalities, officers, or employees in connection with, or arising out of, the aforesaid occurrence.

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