

SECOND REGULAR SESSION

HOUSE BILL NO. 2074

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HUNTER.

Read 1st time March 29, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5674L.01I

AN ACT

To repeal section 287.610, RSMo, and to enact in lieu thereof one new section relating to administrative law judges.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.610, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.610, to read as follows:

287.610. 1. After August 28, 2005, the division may appoint additional administrative law judges for a maximum of forty authorized administrative law judges. Appropriations shall be based upon necessity, measured by the requirements and needs of each division office. Administrative law judges shall be duly licensed lawyers under the laws of this state. Administrative law judges shall not practice law or do law business and shall devote their whole time to the duties of their office. The director of the division of workers' compensation shall publish and maintain on the division's web site the appointment dates or initial dates of service for all administrative law judges.

2. The division director, as a member of the administrative law judge review committee, hereafter referred to as "the committee", shall perform, in conjunction with the committee, a performance audit of all administrative law judges by August 28, 2006. The division director, in conjunction with the committee, shall establish the written performance audit standards on or before October 1, 2005.

3. The thirteen administrative law judges with the most years of service shall be subject to a retention vote on August 28, 2008. The next thirteen administrative law judges with the

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

16 most years of service in descending order shall be subject to a retention vote on August 28, 2012.
17 Administrative law judges appointed and not previously referenced in this subsection shall be
18 subject to a retention vote on August 28, 2016. Subsequent retention votes shall be held every
19 twelve years. Any administrative law judge who has received two or more votes of no
20 confidence under performance audits by the committee shall not receive a vote of retention.

21 4. The administrative law judge review committee members shall not have any direct or
22 indirect employment or financial connection with a workers' compensation insurance company,
23 claims adjustment company, health care provider nor be a practicing workers' compensation
24 attorney. All members of the committee shall have a working knowledge of workers'
25 compensation. **No person shall be appointed to the administrative law judge review**
26 **committee if in the immediately preceding five years such person has been employed by the**
27 **division, has been appointed to the position of administrative law judge, or has held the**
28 **position of administrative law judge.**

29 5. The committee shall within thirty days of completing each performance audit make
30 a recommendation of confidence or no confidence for each administrative law judge.

31 6. The administrative law judges appointed by the division shall only have jurisdiction
32 to hear and determine claims upon original hearing and shall have no jurisdiction upon any
33 review hearing, either in the way of an appeal from an original hearing or by way of reopening
34 any prior award, except to correct a clerical error in an award or settlement if the correction is
35 made by the administrative law judge within twenty days of the original award or settlement.
36 The labor and industrial relations commission may remand any decision of an administrative law
37 judge for a more complete finding of facts. The commission may also correct a clerical error in
38 awards or settlements within thirty days of its final award. With respect to original hearings, the
39 administrative law judges shall have such jurisdiction and powers as are vested in the division
40 of workers' compensation under other sections of this chapter, and wherever in this chapter the
41 word "commission", "commissioners" or "division" is used in respect to any original hearing,
42 those terms shall mean the administrative law judges appointed under this section. When a
43 hearing is necessary upon any claim, the division shall assign an administrative law judge to such
44 hearing. Any administrative law judge shall have power to approve contracts of settlement, as
45 provided by section 287.390, between the parties to any compensation claim or dispute under this
46 chapter pending before the division of workers' compensation. Any award by an administrative
47 law judge upon an original hearing shall have the same force and effect, shall be enforceable in
48 the same manner as provided elsewhere in this chapter for awards by the labor and industrial
49 relations commission, and shall be subject to review as provided by section 287.480.

50 7. Any of the administrative law judges employed pursuant to this section may be
51 assigned on a temporary basis to the branch offices as necessary in order to ensure the proper
52 administration of this chapter.

53 8. All administrative law judges shall be required to participate in, on a continuing basis,
54 specific training that shall pertain to those elements of knowledge and procedure necessary for
55 the efficient and competent performance of the administrative law judges' required duties and
56 responsibilities. Such training requirements shall be established by the division subject to
57 appropriations and shall include training in medical determinations and records, mediation and
58 legal issues pertaining to workers' compensation adjudication. Such training may be credited
59 toward any continuing legal education requirements.

60 9. (1) The director of the division, in conjunction with the administrative law judge
61 review committee, shall conduct a performance audit of all administrative law judges every two
62 years. The audit results, stating the committee's recommendation of confidence or no confidence
63 of each administrative law judge shall be sent to the governor no later than the first week of each
64 legislative session immediately following such audit. Any administrative law judge who has
65 received two or more votes of no confidence under performance audits by the committee may
66 have their appointment immediately withdrawn.

67 (2) The review committee shall consist of the division director, who shall be appointed
68 by the governor, one member appointed by the president pro tem of the senate, one member
69 appointed by the minority leader of the senate, one member appointed by the speaker of the
70 house of representatives, and one member appointed by the minority leader of the house of
71 representatives. The governor shall appoint to the committee one member selected from the
72 commission on retirement, removal, and discipline of judges. This member shall act as a
73 member ex-officio and shall not have a vote in the committee. The division director shall serve
74 as the chairperson of the committee, and shall serve on the committee during the time of
75 employment in such position. The term of service for all other members shall be two years. The
76 review committee members shall all serve without compensation. Necessary expenses for
77 review committee members and all necessary support services to the review committee shall be
78 provided by the division.

79 10. No rule or portion of a rule promulgated pursuant to the authority of this section shall
80 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
81 RSMo.

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