

SECOND REGULAR SESSION

HOUSE BILL NO. 1888

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHROER.

4340H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 287.610, RSMo, and to enact in lieu thereof one new section relating to workers' compensation law.

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Section A. Section 287.610, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.610, to read as follows: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. **Notwithstanding the provisions of section 36.025 to the contrary, after August 28, 2020, all administrative law judges appointed by the division and all administrative law judges serving as of August 28, 2020, shall be subject to a defined term as provided in this section. The terms of those serving as of August 28, 2020, shall be staggered based on their total months of service as an administrative law judge. The terms of the thirteen administrative law judges with the most months of service shall be two years. The terms of the thirteen administrative law judges with the next most months of service shall be four years. The terms of the administrative law judges appointed and not previously referenced in this subsection shall be six years. Thereafter, all terms of service shall be for six years.**

2. **Any administrative law judge appointed to fill a vacancy occurring prior to the expiration of the term for which the person's predecessor was appointed shall be appointed by the division director for the remainder of such term. Notwithstanding a positive retention vote as provided in this section, in no case shall an administrative law judge serve beyond his or her term unless reappointed by the director. In addition to any other mechanism for removal of an administrative law judge as provided in this chapter, an**

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.

18 **administrative law judge may be removed by the division director prior to the end of his**
19 **or her term for gross inefficiency; incapacity; neglect of duties; malfeasance, misfeasance,**
20 **or nonfeasance in office; incompetence; or for any offense involving moral turpitude or**
21 **oppression in office.**

22 **3.** Appropriations shall be based upon necessity, measured by the requirements and needs
23 of each division office. Administrative law judges shall be duly licensed lawyers under the laws
24 of this state. Administrative law judges shall not practice law or ~~[do]~~ **engage in the business**
25 **of law [business]** and shall devote their whole time to the duties of their office. The director of
26 the division of workers' compensation shall publish and maintain on the division's website the
27 appointment dates or initial dates of service for all administrative law judges.

28 ~~[2.]~~ **4.** The thirteen administrative law judges with the most years of service shall be
29 subject to a retention vote on August 28, ~~[2008]~~ **2022**. The next thirteen administrative law
30 judges with the most years of service in descending order shall be subject to a retention vote on
31 August 28, ~~[2012]~~ **2024**. Administrative law judges appointed and not previously referenced in
32 this subsection shall be subject to a retention vote on August 28, ~~[2016]~~ **2026**. Subsequent
33 retention votes shall be held every ~~[twelve]~~ **three** years. Any administrative law judge who has
34 received two or more votes of no confidence under performance audits by the committee shall
35 not receive a vote of retention.

36 ~~[3.]~~ **5.** The administrative law judge review committee members shall not have any direct
37 or indirect employment or financial connection with a workers' compensation insurance
38 company, claims adjustment company, health care provider nor be a practicing workers'
39 compensation attorney. All members of the committee shall have a working knowledge of
40 workers' compensation.

41 ~~[4.]~~ **6.** The committee shall within thirty days of completing each performance audit
42 make a recommendation of confidence or no confidence for each administrative law judge.

43 ~~[5.]~~ **7.** The administrative law judges appointed by the division **director** shall only have
44 jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction
45 upon any review hearing, either in the way of an appeal from an original hearing or by way of
46 reopening any prior award, except to correct a clerical error in an award or settlement if the
47 correction is made by the administrative law judge within twenty days of the original award or
48 settlement. The labor and industrial relations commission may remand any decision of an
49 administrative law judge for a more complete finding of facts. The commission may also correct
50 a clerical error in awards or settlements within thirty days of its final award. With respect to
51 original hearings, the administrative law judges shall have such jurisdiction and powers as are
52 vested in the division of workers' compensation under other sections of this chapter, and
53 wherever in this chapter the word "commission", "commissioners" or "division" is used in

54 respect to any original hearing, those terms shall mean the administrative law judges appointed
55 under this section. When a hearing is necessary upon any claim, the division shall assign an
56 administrative law judge to such hearing. Any administrative law judge shall have power to
57 approve contracts of settlement, as provided by section 287.390, between the parties to any
58 compensation claim or dispute under this chapter pending before the division of workers'
59 compensation. Any award by an administrative law judge upon an original hearing shall have
60 the same force and effect, shall be enforceable in the same manner as provided elsewhere in this
61 chapter for awards by the labor and industrial relations commission, and shall be subject to
62 review as provided by section 287.480.

63 [6.] 8. Any of the administrative law judges employed pursuant to this section may be
64 assigned on a temporary basis to the branch offices as necessary in order to ensure the proper
65 administration of this chapter.

66 [7.] 9. All administrative law judges shall be required to participate in, on a continuing
67 basis, specific training that shall pertain to those elements of knowledge and procedure necessary
68 for the efficient and competent performance of the administrative law judges' required duties and
69 responsibilities. Such training requirements shall be established by the division subject to
70 appropriations and shall include training in medical determinations and records, mediation and
71 legal issues pertaining to workers' compensation adjudication. Such training may be credited
72 toward any continuing legal education requirements.

73 [8.] 10. (1) The administrative law judge review committee shall conduct a performance
74 audit of all administrative law judges every two years. The audit results, stating the committee's
75 recommendation of confidence or no confidence of each administrative law judge shall be sent
76 to the governor no later than the first week of each legislative session immediately following
77 such audit. Any administrative law judge who has received three or more votes of no confidence
78 under two successive performance audits by the committee may have their appointment
79 immediately withdrawn.

80 (2) The review committee shall consist of one member appointed by the president pro
81 tem of the senate, one member appointed by the minority leader of the senate, one member
82 appointed by the speaker of the house of representatives, [and] one member appointed by the
83 minority leader of the house of representatives, **and one member appointed by the governor.**
84 ~~[The governor shall appoint to the committee one member selected from the commission on~~
85 ~~retirement, removal, and discipline of judges. This member shall act as a member ex officio and~~
86 ~~shall not have a vote in the committee.]~~ The committee shall annually elect a chairperson from
87 its members for a term of one year. The term of service for all members shall be two years. The
88 review committee members shall all serve without compensation. Necessary expenses for

89 review committee members and all necessary support services to the review committee shall be
90 provided by the division.

91 [9.] **11.** No rule or portion of a rule promulgated pursuant to the authority of this section
92 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

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