

1 AN ACT relating to workers' compensation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 342.213 is amended to read as follows:

- 4 (1) The Governor shall make all appointments to the board, and appoint the
5 administrative law judges of the Department of Workers' Claims, subject to the
6 consent of the Senate in accordance with KRS 11.160, and in accordance with this
7 section and KRS 342.215 and 342.230 by choosing from names presented to him or
8 her by the Workers' Compensation Nominating Committee.
- 9 (2) The Workers' Compensation Nominating Committee shall consist of five (5)
10 members appointed by the Governor as follows:
- 11 (a) 1. One (1) member of the political party having the largest number of
12 registered voters and one (1) member of the political party having the
13 second largest number of registered voters shall serve a term of two (2)
14 years;
- 15 2. One (1) member of the political party having the largest number of
16 registered voters shall serve a term of three (3) years; and
- 17 3. Thereafter, upon the expiration of a term, the vacancy created shall be
18 filled by an appointee from the same political party for a term of four (4)
19 years;
- 20 (b) 1. Two (2) members who shall be attorneys with experience in the practice
21 of workers' compensation, one (1) who customarily represents claimants
22 and one (1) who customarily represents employers, each of whom shall
23 serve a term of four (4) years; and
- 24 2. Thereafter, upon expiration of a term, the vacancy shall be filled by an
25 appointee who meets the same required qualifications or criteria and
26 who shall serve a term of four (4) years;
- 27 (c) Appointments to fill the unexpired term of a member due to the resignation of

1 a member, removal of a member pursuant to KRS 63.080, or any other reason
2 shall be for the remainder of the term, and the new appointee shall meet the
3 same required qualifications or criteria as stated in this section; and

4 (d) At the first meeting of each calendar year, the members shall select a
5 chairman of the nominating committee who shall serve as chairman for the
6 duration of that calendar year.

7 (3) Notwithstanding the provisions of subsection (2) of this section, at least two (2)
8 members of the Workers' Compensation Nominating Committee shall be
9 individuals who directly derive no earned income from the workers' compensation
10 program. In order to satisfy the requirement of this subsection, the Governor shall
11 remove any existing member of the Workers' Compensation Nominating
12 Committee who directly derives earned income from the workers' compensation
13 program and replace that member with an individual who does not derive earned
14 income from the workers' compensation program.

15 (4) The commissioner shall monitor the workload of the administrative law judges and,
16 whenever a vacancy occurs, determine whether filling the position is necessary to
17 expeditious resolution of claims brought under this chapter. One hundred fifty
18 (150) days~~[One hundred twenty (120) days]~~ prior to the expiration of the terms of
19 the administrative law judges, and when a vacancy occurs under other
20 circumstances, the commissioner shall certify to the Workers' Compensation
21 Nominating Committee that filling the position is necessary and the Workers'
22 Compensation Nominating Committee shall act to fill only such positions as have
23 been certified as necessary by the commissioner.

24 (5) (a) The Workers' Compensation Nominating Committee shall consult with the
25 commissioner, chief administrative law judge, and a member of the Workers'
26 Compensation Board as to the performance in office of the administrative law
27 judges. The Workers' Compensation Nominating Committee may recommend

1 retention of any sitting administrative law judge or board member, or present
2 to the Governor the names of three (3) qualified individuals nominated for the
3 position. The Workers' Compensation Nominating Committee shall report its
4 recommendation for retention to the Governor no later than thirty (30) days
5 after receipt from the commissioner of certification of the necessity to fill the
6 position and shall render to the Governor its list of nominees to fill vacancies
7 within sixty (60) days of receipt of the commissioner's certification. The name
8 of an individual who has been rejected by the Governor when recommended
9 for retention shall not be presented thereafter as a nominee for the same
10 position. No sitting administrative law judge shall be nominated to fill more
11 than one (1) vacancy except for separate vacancies as an administrative law
12 judge.

13 (b) Within thirty (30) days of receipt of the recommendation, the Governor may
14 reject recommendations of retention, in which event the Workers'
15 Compensation Nominating Committee shall, within thirty (30) days,
16 reconvene and present a list of the names of three (3) nominees for each
17 position for which a recommendation for retention has been rejected by the
18 Governor.

19 (6) The commissioner shall be subject to Senate confirmation in accordance with KRS
20 11.160.

21 (7) (a) The Governor shall appoint the members of the Workers' Compensation
22 Board. If a sitting board member is not retained, the~~The~~ nominating
23 committee shall present to the Governor a list of three (3) candidates for
24 appointment to the board no later than thirty (30) days prior to the expiration
25 of a board member's term. For the purpose of filling vacancies on the board
26 which occur for reasons other than an expiration of term, the nominating
27 committee shall present a list of three (3) names to the Governor no later than

1 sixty (60) days after a vacancy occurs.

2 (b) If the Governor fails to appoint a member of the board within thirty (30) days
 3 following receipt of a list of names from the nominating committee, the
 4 previous appointee may remain in the position until adjournment of the
 5 Senate the year following the expiration of his or her term~~[the ninetieth day~~
 6 ~~following the date the nominating committee provided the Governor with its~~
 7 ~~list of names]~~, at which time he or she shall vacate the position.

8 (c) Each newly appointed member of the board shall not assume his or her
 9 office until thirty (30) days after confirmation by the Senate. Members who
 10 are reappointed shall continue to serve in their capacity until the
 11 reappointment is confirmed by the Senate or the Senate adjourns without
 12 confirming the appointment.

13 (8) (a) The nominating committee shall meet as often as necessary to perform its
 14 statutory responsibilities, including but not limited to the mandates
 15 enumerated in this section, and a majority of the members shall constitute a
 16 quorum for the transaction of business; and

17 (b) The members shall be reimbursed from funds collected pursuant to KRS
 18 342.122 for necessary expenses in the manner and amounts prescribed for
 19 state employees by KRS 45.101 and the administrative regulations
 20 promulgated under the authority of that statute. Members of the nominating
 21 committee shall not be paid for their attendance at any meeting.

22 ➔Section 2. KRS 342.215 is amended to read as follows:

23 (1) The Workers' Compensation Board is hereby created and established. The board
 24 shall rule on appeals of decisions rendered by administrative law judges under this
 25 chapter. The board shall rule on an appeal of a decision of an administrative law
 26 judge no later than sixty (60) days following the date on which the last appeal brief
 27 was filed.

1 (2) The Workers' Compensation Board shall consist of three (3) members appointed by
 2 the Governor. Each member shall hold no other public office and shall devote his or
 3 her full time to the duties of his or her office. Each member shall be exempt from
 4 the classified service, and his or her support staff may be exempt from the classified
 5 service.

6 (3) Of the members of the board appointed under this section, any member appointed
 7 to fill an unexpired term shall immediately assume the office subject to the
 8 confirmation by the Senate in accordance with KRS 11.160 for the remainder of
 9 the term. Any member not currently pending reappointment by the Senate with a
 10 term expiring on or before:

11 (a) December 1, 2025, shall continue serving a term that shall expire on June
 12 1, 2026;

13 (b) December 1, 2026, shall continue serving a term that shall expire on June
 14 1, 2027; or

15 (c) December 1, 2027, shall continue serving a term that shall expire on June
 16 1, 2028~~[one (1) shall serve a term that shall expire on January 4, 2002; one (1)~~
 17 ~~shall serve a term that shall expire on January 4, 2003; and one (1) shall serve~~
 18 ~~a term that shall expire on January 4, 2004, as designated by the Governor at~~
 19 ~~the time of appointment].~~

20 Thereafter, each term of a board member shall run for four (4) years from the date
 21 of expiration of the term for which the member's predecessor was appointed, except
 22 that a person appointed to fill a vacancy prior to the expiration of a term shall be
 23 appointed for the remainder of the term. The Governor shall not appoint a member
 24 of the board to fill the unexpired term of another board member, nor shall the
 25 Governor reappoint a member of the board who has been removed from his or her
 26 position prior to the expiration of his or her term. The members of the board shall
 27 have the qualifications required of appeals court judges, except for residence in a

1 district, and shall receive the same salary and shall be subject to the same standards
2 of conduct. The Governor shall designate a member of the board to serve as
3 chairman. Any vacancy in the chairmanship shall be filled by the Governor. The
4 Governor may at any time remove any member for cause after furnishing the
5 member with a written copy of the charges against him or her and giving the
6 member a public hearing if he or she requests it.

7 (4) A decision concurred in by any two (2) of the three (3) members shall constitute a
8 decision of the board.

9 (5) Members of the Workers' Compensation Board and the administrative law judges
10 shall be members of the Kentucky Employees Retirement System.

11 (6) The Workers' Compensation Board shall be attached to the Department of Workers'
12 Claims in the Education and Labor Cabinet.

13 ➔Section 3. KRS 342.230 is amended to read as follows:

14 (1) The commissioner with the assistance of the board shall train and instruct the
15 administrative law judges on an ongoing basis; assign cases; and monitor the
16 caseloads of the administrative law judges and the Workers' Compensation Board to
17 ensure timely disposition of cases; keep and be the custodian of the records of the
18 board and the administrative law judges; annually report the activities of the board
19 and the administrative law judges to the Governor; and devote his or her full time to
20 the duties of his or her office. The commissioner shall be paid a salary not less than
21 the salary of a member of the board.

22 (2) The Governor shall appoint, with the consent of the Senate in accordance with KRS
23 11.160 for a term of four (4) years, not more than nineteen (19) administrative law
24 judges, each of whom shall be an attorney and shall have five (5) years' experience
25 in the Commonwealth in the practice of workers' compensation law or a related
26 field, and extensive knowledge of workers' compensation law, and shall be paid the
27 same salary as a Circuit Judge. *Each newly appointed administrative law judge*

1 shall not assume his or her office until June 1 following confirmation by the
2 Senate. Administrative law judges who are reappointed shall continue to serve in
3 their capacity until the reappointment is confirmed by the Senate or the Senate
4 adjourns without confirming the appointment. Each administrative law judge shall
5 be exempt from the classified service, and his or her support staff may be exempt
6 from the classified service. Each administrative law judge may be employed for
7 additional terms with the consent of the Senate in accordance with KRS 11.160.
8 The Governor, at least thirty (30) days prior to the expiration of a term of an
9 administrative law judge, shall provide the name of the individual whom he or she
10 intends to appoint to the position to the chairman of the Senate Standing
11 Committee on Economic Development, Tourism, and Labor~~Senate Economic~~
12 ~~Development and Workforce Investment Committee~~. These administrative law
13 judges shall conduct hearings, and otherwise supervise the presentation of evidence
14 and perform any other duties assigned to them by statute and shall render final
15 decisions, orders, or awards. Administrative law judges may, in receiving evidence,
16 make rulings affecting the competency, relevancy, and materiality of the evidence
17 about to be presented and upon motions presented during the taking of evidence as
18 will expedite the preparation of the case.

19 (3) To ensure that the administrative law judges perform their responsibilities
20 competently and issue decisions consistent with this chapter, the commissioner
21 shall, at least twice annually, conduct training and education seminars in workers'
22 compensation law; administrative law; and methods and procedures for writing
23 well-reasoned, clear, correct, and concise opinions, orders, or awards.

24 (4) The Governor may at any time remove the commissioner or any member of the
25 board. The commissioner may remove any administrative law judge. A member of
26 the board or an administrative law judge may be removed for good cause, including
27 violation of the code of judicial ethics or the code of ethics applicable to the

1 executive branch of the Commonwealth. In addition, an administrative law judge or
 2 a member of the board may be removed for the persistent or repeated failure to
 3 perform satisfactorily the specific duties assigned in this chapter, including the
 4 requirement of timely disposition of cases, review of attorney's fees, and failure to
 5 attend training and continuing education programs required by this section.

6 (5) Any vacancy in the term of an administrative law judge, which occurs prior to the
 7 expiration of the term, shall be filled if necessary by appointment of the Governor
 8 in accordance with subsection (2) of this section within sixty (60) days from the
 9 date the vacancy occurs, with the consent of the Senate in accordance with KRS
 10 11.160, for the remainder of the term. An administrative law judge appointed to fill
 11 an unexpired term shall immediately assume the office subject to the
 12 confirmation by the Senate in accordance with KRS 11.160 for the remainder of
 13 the term.

14 (6) Any administrative law judge not currently pending confirmation by the Senate
 15 with a term expiring on or before:

16 (a) December 1, 2025, shall continue serving a term that shall expire on June
 17 1, 2026;

18 (b) December 1, 2026, shall continue serving a term that shall expire on June
 19 1, 2027;

20 (c) December 1, 2027, shall continue serving a term that shall expire on June
 21 1, 2028, or

22 (d) December 1, 2028, shall continue serving a term that shall expire on June
 23 1, 2029

~~(a) On January 1, 1998, the Governor shall make four (4) year~~
 24 ~~appointments to fill as many of these positions as are necessary to fulfill the~~
 25 ~~duties assigned to administrative law judges under this chapter.~~

26 ~~(b) On January 1, 2000, the Governor shall make four (4) year appointments to~~
 27 ~~fill as many of these positions as are necessary to fulfill the duties assigned to~~

1 ~~administrative law judges under this chapter~~.
2 (7) One (1) of the administrative law judges appointed pursuant to this section shall be
3 appointed as a chief administrative law judge, to have the same qualifications,
4 powers, duties, and requirements as those of other administrative law judges. The
5 chief administrative law judge shall not be assigned regular dockets but shall
6 instead assist the commissioner by doing all scheduling of the administrative law
7 judges, handling dockets assigned to the administrative law judges in case of an
8 emergency, providing supervision of the administrative law judges, and providing
9 educational opportunities for the administrative law judges. The chief
10 administrative law judge shall be paid at the same rate as the administrative law
11 judges plus an additional three thousand dollars (\$3,000) per year. At any time the
12 commissioner may replace the chief administrative law judge with one (1) of the
13 other administrative law judges at which time the former chief administrative law
14 judge shall resume the duties assigned to the other administrative law judges
15 pursuant to this chapter. On January 1, 1998, the commissioner shall employ a
16 person in this position for a four (4) year term.