

FIRST REGULAR SESSION

SENATE BILL NO. 346

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Read 1st time January 23, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1150S.011

AN ACT

To repeal sections 287.812, 287.815, 287.825, 287.830 and 622.020, RSMo 2000, relating to benefits of administrative law judges, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Sections 287.812, 287.815, 287.825, 287.830 and 622.020, RSMo 2000, are repealed and five new sections enacted in lieu thereof, to be known as sections 287.812, 287.815, 287.825, 287.830 and 622.020, to read as follows:

287.812. As used in sections 287.812 to 287.855, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative law judge", any person appointed pursuant to section 287.610, [or] section 621.015 **or section 622.020**, RSMo, or any person who hereafter may have by law all of the powers now vested by law in administrative law judges appointed [under] **pursuant to** the provisions of the workers' compensation law, **or any attorney, other than the general counsel or any attorney who serves under the general counsel, who is appointed by the public service commission to preside over matters pending before the commission and who is licensed to practice law in this state;**

(2) "Beneficiary", a surviving spouse married to the deceased administrative law judge or legal advisor of the division of workers' compensation continuously for a period of at least two years immediately preceding the administrative law judge's or legal advisor's death and also on the day of the last termination of such person's employment as an administrative law judge or legal advisor for the division of workers' compensation, or if there is no surviving spouse eligible to receive

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

benefits, any minor child of the deceased administrative law judge or legal advisor, or any child of the deceased administrative law judge or legal advisor who, regardless of age, is unable to support himself because of mental retardation, disease or disability, or any physical handicap or disability, who shall share in the benefits on an equal basis with all other beneficiaries;

(3) "Benefit", a series of equal monthly payments payable during the life of an administrative law judge or legal advisor of the division of workers' compensation retiring pursuant to the provisions of sections 287.812 to 287.855 or payable to a beneficiary as provided in sections 287.812 to 287.850;

(4) "Board", the board of trustees of the Missouri state employees' retirement system;

(5) "Division", the division of workers' compensation of the state of Missouri;

(6) "Legal advisor", any person appointed or employed pursuant to section 287.600, 287.615, or 287.616 to serve in the capacity as a legal advisor or an associate administrative law judge and any person appointed pursuant to section 286.010, RSMo, or pursuant to section 295.030, RSMo, and any attorney or legal counsel appointed or employed pursuant to section 286.070, RSMo;

(7) "Salary", the total annual compensation paid for personal services as an administrative law judge or legal advisor, or both, of the division of workers' compensation by the state or any of its political subdivisions.

287.815. 1. Effective August 28, 1999, any person, sixty-two years of age or older, who has served or who has creditable service in this state for an aggregate of at least twelve years, or any person, sixty years of age or older, who has served or who has creditable service in this state for an aggregate of at least fifteen years or any person, fifty-five years of age or older, who has served or who has creditable service in this state for an aggregate of twenty years, continuously or otherwise, as an administrative law judge or legal advisor, or both, [of the division,] and who, on or after August 13, 1984, ceases to hold office by reason of the expiration of his or her term, voluntary resignation, retirement pursuant to the provisions of sections 287.812 to 287.856, or removal by the governor for any nondisciplinary reason, shall receive benefits as provided in sections 287.812 to 287.856. The twelve years', fifteen years' or twenty years' requirement of this section may be fulfilled by service as an administrative law judge or legal advisor, or both, [of the division] at any time prior to or after August 13, 1984. If a person appointed pursuant to section 286.010, RSMo, **or section 622.020, RSMo**, or a chairman appointed pursuant to section 295.030, RSMo, does not have twelve years' or fifteen years' service, as required pursuant to this subsection, as an administrative law judge or legal advisor, or both, but the person has served in the general assembly, each biennial assembly or partial biennial assembly either served or purchased shall be deemed and credited as two full years of creditable service as an administrative law judge or legal advisor if the person waives in writing all right to any other retirement benefit provided by his or her service as a member of the general assembly.

2. Any aggregate of twelve years or more of such service shall entitle the person to retirement benefits provided in sections 287.812 to 287.856 regardless of whether or not the person was so employed upon reaching the age of eligibility as described in subsection 1 of this section. However, the retirement benefits shall not be paid to the person until that person attains the age of eligibility as described in subsection 1 of this section.

3. If a person appointed pursuant to section 286.010, RSMo, or pursuant to section 295.030, RSMo, or pursuant to section 621.015, RSMo, **or pursuant to section 622.020, RSMo**, or an attorney or legal counsel appointed or employed pursuant to section 286.070, RSMo, **or any attorney, other than the general counsel or any attorney who serves under the general counsel, who is appointed by the public service commission to preside over matters pending before the commission and who is licensed to practice law in this state**, does not have twelve years' service as an administrative law judge or legal advisor, or both, but the person has creditable service under the Missouri state employees' retirement system, such person may elect that such service be credited as service as an administrative law judge or legal advisor if the person waives in writing all right to any other retirement benefit provided for other service. Persons appointed pursuant to section 621.015, RSMo, shall be required to have served a majority of a term in order to qualify for benefits pursuant to sections 287.812 to 287.856.

4. Any person who has been appointed and has served pursuant to section 621.015, RSMo, prior to August 28, 1999, who is receiving or thereafter is qualified to receive retirement benefits pursuant to section 104.374, RSMo, shall upon application be made, constituted, appointed and employed by the board of trustees of the Missouri state employees' retirement system as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the administrative hearing commission, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services and in lieu of receiving benefits pursuant to section 104.374, RSMo, each such special consultant shall be eligible for all benefits payable pursuant to sections 287.812 to 287.856, effective upon the later of August 28, 1999, or the date retirement benefits become payable. In no event shall retroactive benefits be paid.

287.825. 1. On and after August 13, 1984, in the event that a person who is serving as an administrative law judge or legal advisor [of the division] dies, retirement benefits shall be paid in monthly installments to his beneficiary in the amount equal to fifty percent of the amount of the retirement benefits provided in section 287.820 regardless of the period of his service; except that where the period of service could not have been twelve years or more because of a voluntary or mandatory retirement provision, the retirement benefits provided by this subsection shall be reduced by the proportion that the number of years that he would have lacked serving twelve years had he been able to serve until voluntary or mandatory retirement bears to twelve years. The benefits to the beneficiary provided herein shall commence immediately upon the death of the

administrative law judge or legal advisor.

2. In the event a person who has retired under the provisions of sections 287.812 to 287.855 dies, benefits, in the amount equal to fifty percent of the amount of the retirement benefits paid to the person under the provisions of sections 287.820 to 287.830 shall be paid in monthly installments to his beneficiary.

3. In the event that a person dies who has served in this state for an aggregate of twelve years, continuously or otherwise, as an administrative law judge or legal advisor, or both [of the divisions] and who, after August 13, 1984, ceased or ceases to hold office by reason of the expiration of his term, voluntary resignation or removal by the governor for nondisciplinary reasons, but who has not retired under the provisions of sections 287.812 to 287.855, retirement compensation shall be paid in monthly installments to his beneficiary in the amount equal to fifty percent of the amount of retirement compensation provided in section 287.820. The benefits to the beneficiary provided herein shall commence immediately upon the death of the former administrative law judge or legal advisor.

4. In the event that any surviving spouse receiving benefits under the provisions of sections 287.812 to 287.855 dies leaving a surviving beneficiary as defined in section 287.812, the benefits received by such surviving spouse shall be paid to such surviving beneficiary during the remainder of the period of his eligibility. If such surviving spouse leaves more than one surviving beneficiary, then each beneficiary during the remainder of the period of his eligibility shall receive a pro rata share of the amount paid to the surviving spouse under the provisions of sections 287.812 to 287.855.

287.830. Any administrative law judge or legal advisor who has served as such for less than twelve years and is otherwise qualified under sections 287.812 to 287.855 may elect to retire at age sixty-five, or thereafter, at a reduced retirement benefit in a sum equal to the proportion of the retirement benefit provided in section 287.820 that his period of service as an administrative law judge or legal advisor, or both, [of the division] bears to twelve years.

622.020. 1. Three administrative law judges shall also be appointed for the division. They shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. Each shall be appointed for a term of six years, except of those first appointed, one shall be appointed for a term of four years, and one for a term of two years. Each shall be an attorney-at-law admitted to practice before the supreme court of Missouri, and while serving in this capacity as an administrative law judge shall not otherwise practice law during his term of office. Not more than two of the administrative law judges shall be members of the same political party.

2. Administrative law judges shall [be compensated at the same rate] **receive the same compensation and benefits** as administrative hearing commissioners [are compensated], and they shall be reimbursed for actual and necessary expenses incurred in the performance of their

duties.

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