

FIRST REGULAR SESSION

SENATE BILL NO. 255

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCHMITT AND SCHAEFER.

Read 1st time February 4, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1315S.01I

AN ACT

To repeal section 287.610, RSMo, and to enact in lieu thereof one new section relating to the administrative law judge review committee.

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Section A. Section 287.610, RSMo, is repealed and one new section
2 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
2 administrative law judges for a maximum of forty authorized administrative law
3 judges. Appropriations shall be based upon necessity, measured by the
4 requirements and needs of each division office. Administrative law judges shall
5 be duly licensed lawyers under the laws of this state. Administrative law judges
6 shall not practice law or do law business and shall devote their whole time to the
7 duties of their office. The director of the division of workers' compensation shall
8 publish and maintain on the division's website the appointment dates or initial
9 dates of service for all administrative law judges.

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

16 3.] The thirteen administrative law judges with the most years of service
17 shall be subject to a retention vote on August 28, 2008. The next thirteen
18 administrative law judges with the most years of service in descending order shall
19 be subject to a retention vote on August 28, 2012. Administrative law judges

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

20 appointed and not previously referenced in this subsection shall be subject to a
21 retention vote on August 28, 2016. Subsequent retention votes shall be held
22 every twelve years. Any administrative law judge who has received two or more
23 votes of no confidence under performance audits by the committee shall not
24 receive a vote of retention.

25 **[4.] 3.** The administrative law judge review committee members shall not
26 have any direct or indirect employment or financial connection with a workers'
27 compensation insurance company, claims adjustment company, health care
28 provider nor be a practicing workers' compensation attorney. All members of the
29 committee shall have a working knowledge of workers' compensation.

30 **[5.] 4.** The committee shall within thirty days of completing each
31 performance audit make a recommendation of confidence or no confidence for each
32 administrative law judge.

33 **[6.] 5.** The administrative law judges appointed by the division shall only
34 have jurisdiction to hear and determine claims upon original hearing and shall
35 have no jurisdiction upon any review hearing, either in the way of an appeal from
36 an original hearing or by way of reopening any prior award, except to correct a
37 clerical error in an award or settlement if the correction is made by the
38 administrative law judge within twenty days of the original award or
39 settlement. The labor and industrial relations commission may remand any
40 decision of an administrative law judge for a more complete finding of facts.

41 The commission may also correct a clerical error in awards or settlements within
42 thirty days of its final award. With respect to original hearings, the
43 administrative law judges shall have such jurisdiction and powers as are vested
44 in the division of workers' compensation under other sections of this chapter, and
45 wherever in this chapter the word "commission", "commissioners" or "division" is
46 used in respect to any original hearing, those terms shall mean the
47 administrative law judges appointed under this section. When a hearing is
48 necessary upon any claim, the division shall assign an administrative law judge
49 to such hearing. Any administrative law judge shall have power to approve
50 contracts of settlement, as provided by section 287.390, between the parties to
51 any compensation claim or dispute under this chapter pending before the division
52 of workers' compensation. Any award by an administrative law judge upon an
53 original hearing shall have the same force and effect, shall be enforceable in the
54 same manner as provided elsewhere in this chapter for awards by the labor and
55 industrial relations commission, and shall be subject to review as provided by

56 section 287.480.

57 [7.] 6. Any of the administrative law judges employed pursuant to this
58 section may be assigned on a temporary basis to the branch offices as necessary
59 in order to ensure the proper administration of this chapter.

60 [8.] 7. All administrative law judges shall be required to participate in,
61 on a continuing basis, specific training that shall pertain to those elements of
62 knowledge and procedure necessary for the efficient and competent performance
63 of the administrative law judges' required duties and responsibilities. Such
64 training requirements shall be established by the division subject to
65 appropriations and shall include training in medical determinations and records,
66 mediation and legal issues pertaining to workers' compensation
67 adjudication. Such training may be credited toward any continuing legal
68 education requirements.

69 [9.] 8. (1) [The director of the division, in conjunction with] The
70 administrative law judge review committee[,] shall conduct a performance audit
71 of all administrative law judges every two years. The audit results, stating the
72 committee's recommendation of confidence or no confidence of each administrative
73 law judge shall be sent to the governor no later than the first week of each
74 legislative session immediately following such audit. Any administrative law
75 judge who has received two or more votes of no confidence under performance
76 audits by the committee may have their appointment immediately withdrawn.

77 (2) The review committee shall consist of [the division director, who shall
78 be appointed by the governor,] one member appointed by the president pro tem
79 of the senate, one member appointed by the minority leader of the senate, one
80 member appointed by the speaker of the house of representatives, and one
81 member appointed by the minority leader of the house of representatives. The
82 governor shall appoint to the committee one member selected from the
83 commission on retirement, removal, and discipline of judges. This member shall
84 act as a member ex-officio and shall not have a vote in the committee. [The
85 division director shall serve as the chairperson of the committee, and shall serve
86 on the committee during the time of employment in such position.] **The**
87 **committee shall annually elect a chairperson from its members for a**
88 **term of one year.** The term of service for all [other] members shall be two
89 years. The review committee members shall all serve without
90 compensation. Necessary expenses for review committee members and all
91 necessary support services to the review committee shall be provided by the

92 division.

93 [10.] **9.** No rule or portion of a rule promulgated pursuant to the
94 authority of this section shall become effective unless it has been promulgated
95 pursuant to the provisions of chapter 536.

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Unofficial

Bill

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