

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 996
AN ACT

To repeal sections 287.200, 287.470, 287.610, 287.615, 287.640, 287.690, 287.715, 287.812, 287.835, and 621.045, RSMo, and to enact in lieu thereof ten new sections relating to workers' compensation.

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

Section A. Sections 287.200, 287.470, 287.610, 287.615, 287.640, 287.690, 287.715, 287.812, 287.835, and 621.045, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 287.200, 287.470, 287.610, 287.615, 287.640, 287.690, 287.715, 287.812, 287.835, and 621.045, to read as follows:

287.200. 1. Compensation for permanent total disability shall be paid during the continuance of such disability from the date of maximum medical improvement for the lifetime of the employee at the weekly rate of compensation in effect under this subsection on the date of the injury for which compensation is being made. The word "employee" as used in this section shall not include the injured worker's dependents, estate, or other persons to whom compensation may be payable as provided in subsection 1 of section 287.020. The amount of such compensation shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly

18 compensation paid under this subdivision shall not exceed an
19 amount equal to seventy percent of the state average weekly
20 wage, as such wage is determined by the division of
21 employment security, as of the July first immediately
22 preceding the date of injury;

23 (2) For all injuries occurring on or after September
24 28, 1986, but before August 28, 1990, the weekly
25 compensation shall be an amount equal to sixty-six and two-
26 thirds percent of the injured employee's average weekly
27 earnings during the year immediately preceding the injury,
28 as of the date of the injury; provided that the weekly
29 compensation paid under this subdivision shall not exceed an
30 amount equal to seventy-five percent of the state average
31 weekly wage, as such wage is determined by the division of
32 employment security, as of the July first immediately
33 preceding the date of injury;

34 (3) For all injuries occurring on or after August 28,
35 1990, but before August 28, 1991, the weekly compensation
36 shall be an amount equal to sixty-six and two-thirds percent
37 of the injured employee's average weekly earnings as of the
38 date of the injury; provided that the weekly compensation
39 paid under this subdivision shall not exceed an amount equal
40 to one hundred percent of the state average weekly wage;

41 (4) For all injuries occurring on or after August 28,
42 1991, the weekly compensation shall be an amount equal to
43 sixty-six and two-thirds percent of the injured employee's
44 average weekly earnings as of the date of the injury;
45 provided that the weekly compensation paid under this
46 subdivision shall not exceed an amount equal to one hundred
47 five percent of the state average weekly wage;

48 (5) For all injuries occurring on or after September
49 28, 1981, the weekly compensation shall in no event be less
50 than forty dollars per week.

51 2. Permanent total disability benefits that have
52 accrued through the date of the injured employee's death are
53 the only permanent total disability benefits that are to be
54 paid in accordance with section 287.230. The right to
55 unaccrued compensation for permanent total disability of an
56 injured employee terminates on the date of the injured
57 employee's death in accordance with section 287.230, and
58 does not survive to the injured employee's dependents,
59 estate, or other persons to whom compensation might
60 otherwise be payable.

61 3. (1) All claims for permanent total disability
62 shall be determined in accordance with the facts. [When an
63 injured employee receives an award for permanent total
64 disability but by the use of glasses, prosthetic appliances,
65 or physical rehabilitation the employee is restored to his
66 or her regular work or its equivalent, the life payment
67 mentioned in subsection 1 of this section shall be suspended
68 during the time in which the employee is restored to his or
69 her regular work or its equivalent.] The employer and the
70 division shall keep the file open in the case during the
71 lifetime of any injured employee who has received an award
72 of permanent total disability.

73 (2) When an injured employee receives an award for
74 permanent total disability but by the use of glasses,
75 prosthetic appliances, or physical rehabilitation the
76 employee is restored to his or her regular work or its
77 equivalent, the life payment mentioned in subsection 1 of
78 this section shall be suspended during the time in which the
79 employee is restored to his or her regular work or its
80 equivalent. In any case where the life payment is suspended
81 under this [subsection] subdivision, the commission may at
82 reasonable times review the case and either the employee or
83 the employer may request an informal conference with the

84 commission relative to the resumption of the employee's
85 weekly life payment in the case.

86 (3) Upon filing of a written agreement signed by the
87 claimant and his or her attorney and the new attorney, the
88 commission shall change the name, information, or fee
89 arrangement of the attorney or law firm associated with the
90 claimant's case.

91 4. For all claims filed on or after January 1, 2014,
92 for occupational diseases due to toxic exposure which result
93 in a permanent total disability or death, benefits in this
94 chapter shall be provided as follows:

95 (1) Notwithstanding any provision of law to the
96 contrary, such amount as due to the employee during said
97 employee's life as provided for under this chapter for an
98 award of permanent total disability and death, except such
99 amount shall only be paid when benefits under subdivisions
100 (2) and (3) of this subsection have been exhausted;

101 (2) For occupational diseases due to toxic exposure,
102 but not including mesothelioma, an amount equal to two
103 hundred percent of the state's average weekly wage as of the
104 date of diagnosis for one hundred weeks paid by the
105 employer; and

106 (3) In cases where occupational diseases due to toxic
107 exposure are diagnosed to be mesothelioma:

108 (a) For employers that have elected to accept
109 mesothelioma liability under this subsection, an additional
110 amount of three hundred percent of the state's average
111 weekly wage for two hundred twelve weeks shall be paid by
112 the employer or group of employers such employer is a member
113 of. Employers that elect to accept mesothelioma liability
114 under this subsection may do so by either insuring their
115 liability, by qualifying as a self-insurer, or by becoming a
116 member of a group insurance pool. A group of employers may

117 enter into an agreement to pool their liabilities under this
118 subsection. If such group is joined, individual members
119 shall not be required to qualify as individual self-
120 insurers. Such group shall comply with section 287.223. In
121 order for an employer to make such an election, the employer
122 shall provide the department with notice of such an election
123 in a manner established by the department. The provisions
124 of this paragraph shall expire on December 31, 2038; or

125 (b) For employers who reject mesothelioma under this
126 subsection, then the exclusive remedy provisions under
127 section 287.120 shall not apply to such liability. The
128 provisions of this paragraph shall expire on December 31,
129 2038; and

130 (4) The provisions of subdivision (2) and paragraph
131 (a) of subdivision (3) of this subsection shall not be
132 subject to suspension of benefits as provided in subsection
133 3 of this section; and

134 (5) Notwithstanding any other provision of this
135 chapter to the contrary, should the employee die before the
136 additional benefits provided for in subdivision (2) and
137 paragraph (a) of subdivision (3) of this subsection are
138 paid, the additional benefits are payable to the employee's
139 spouse or children, natural or adopted, legitimate or
140 illegitimate, in addition to benefits provided under section
141 287.240. If there is no surviving spouse or children and
142 the employee has received less than the additional benefits
143 provided for in subdivision (2) and paragraph (a) of
144 subdivision (3) of this subsection the remainder of such
145 additional benefits shall be paid as a single payment to the
146 estate of the employee;

147 (6) The provisions of subdivision (1) of this
148 subsection shall not be construed to affect the employee's
149 ability to obtain medical treatment at the employer's

150 expense or any other benefits otherwise available under this
151 chapter.

152 5. Any employee who obtains benefits under subdivision
153 (2) of subsection 4 of this section for acquiring asbestosis
154 who later obtains an award for mesothelioma shall not
155 receive more benefits than such employee would receive
156 having only obtained benefits for mesothelioma under this
157 section.

287.470. 1. Upon its own motion or upon the
2 application of any party in interest on the ground of a
3 change in condition, the commission may at any time upon a
4 rehearing after due notice to the parties interested review
5 any award and on such review may make an award ending,
6 diminishing or increasing the compensation previously
7 awarded, subject to the maximum or minimum provided in this
8 chapter, and shall immediately send to the parties and the
9 employer's insurer a copy of the award. No such review
10 shall affect such award as regards any moneys paid.

11 2. Upon the filing of a written agreement signed by
12 the claimant and his or her attorney and the new attorney,
13 the commission shall change the name, information, or fee
14 arrangement of the attorney or law firm associated with the
15 claimant's case.

287.610. 1. After August 28, 2005, the division may
2 appoint additional administrative law judges for a maximum
3 of forty authorized administrative law judges.
4 Appropriations shall be based upon necessity, measured by
5 the requirements and needs of each division office.
6 Administrative law judges shall be duly licensed lawyers
7 under the laws of this state. Administrative law judges
8 shall not practice law or do law business and shall devote
9 their whole time to the duties of their office. All
10 administrative law judges shall retire from such position at

11 the age of seventy years. The provisions of section 36.025
12 shall not apply to administrative law judges. The director
13 of the division of workers' compensation shall publish and
14 maintain on the division's website the appointment dates or
15 initial dates of service for all administrative law judges.

16 2. [The thirteen administrative law judges with the
17 most years of service shall be subject to a retention vote
18 on August 28, 2008. The next thirteen administrative law
19 judges with the most years of service in descending order
20 shall be subject to a retention vote on August 28, 2012.
21 Administrative law judges appointed and not previously
22 referenced in this subsection shall be subject to a
23 retention vote on August 28, 2016. Subsequent retention
24 votes shall be held every twelve years. Any administrative
25 law judge who has received two or more votes of no
26 confidence under performance audits by the committee shall
27 not receive a vote of retention.

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

35 [4. The committee shall within thirty days of
36 completing each performance audit make a recommendation of
37 confidence or no confidence for each administrative law
38 judge.

39 5.] 3. The administrative law judges appointed by the
40 division shall only have jurisdiction to hear and determine
41 claims upon original hearing and shall have no jurisdiction
42 upon any review hearing, either in the way of an appeal from
43 an original hearing or by way of reopening any prior award,

44 except to correct a clerical error in an award or settlement
45 if the correction is made by the administrative law judge
46 within twenty days of the original award or settlement. The
47 labor and industrial relations commission may remand any
48 decision of an administrative law judge for a more complete
49 finding of facts. The commission may also correct a
50 clerical error in awards or settlements within thirty days
51 of its final award. With respect to original hearings, the
52 administrative law judges shall have such jurisdiction and
53 powers as are vested in the division of workers'
54 compensation under other sections of this chapter, and
55 wherever in this chapter the word "commission",
56 "commissioners" or "division" is used in respect to any
57 original hearing, those terms shall mean the administrative
58 law judges appointed under this section. When a hearing is
59 necessary upon any claim, the division shall assign an
60 administrative law judge to such hearing. Any
61 administrative law judge shall have power to approve
62 contracts of settlement, as provided by section 287.390,
63 between the parties to any compensation claim or dispute
64 under this chapter pending before the division of workers'
65 compensation. Any award by an administrative law judge upon
66 an original hearing shall have the same force and effect,
67 shall be enforceable in the same manner as provided
68 elsewhere in this chapter for awards by the labor and
69 industrial relations commission, and shall be subject to
70 review as provided by section 287.480.

71 [6.] 4. Any of the administrative law judges employed
72 pursuant to this section may be assigned on a temporary
73 basis to the branch offices as necessary in order to ensure
74 the proper administration of this chapter.

75 [7.] 5. All administrative law judges shall be
76 required to participate in, on a continuing basis, specific

77 training that shall pertain to those elements of knowledge
78 and procedure necessary for the efficient and competent
79 performance of the administrative law judges' required
80 duties and responsibilities. Such training requirements
81 shall be established by the division subject to
82 appropriations and shall include training in medical
83 determinations and records, mediation and legal issues
84 pertaining to workers' compensation adjudication. Such
85 training may be credited toward any continuing legal
86 education requirements.

87 [8.] 6. (1) [The administrative law judge review
88 committee shall conduct a performance audit of all
89 administrative law judges every two years. The audit
90 results, stating the committee's recommendation of
91 confidence or no confidence of each administrative law judge
92 shall be sent to the governor no later than the first week
93 of each legislative session immediately following such
94 audit. Any administrative law judge who has received three
95 or more votes of no confidence under two successive
96 performance audits by the committee may have their
97 appointment immediately withdrawn] Beginning August 28,
98 2026, all administrative law judges, regardless of years of
99 service, shall be subject to a retention vote every four
100 years. Any administrative law judge who has, upon a vote of
101 retention, received a vote not in favor of retention by a
102 majority of the administrative law judge review committee
103 shall immediately be terminated as an administrative law
104 judge.

105 (2) The review committee shall consist of one member
106 appointed by the president pro tem of the senate, one member
107 appointed by the minority leader of the senate, one member
108 appointed by the speaker of the house of representatives,
109 and one member appointed by the minority leader of the house

110 of representatives. The governor shall appoint to the
111 committee one member selected from the commission on
112 retirement, removal, and discipline of judges. This
113 member shall act as a member ex officio and shall not have a
114 vote in the committee. The committee shall annually elect a
115 chairperson from its members for a term of one year. The
116 term of service for all members shall be two years. The
117 review committee members shall all serve without
118 compensation. Necessary expenses for review committee
119 members and all necessary support services to the review
120 committee shall be provided by the division.

121 7. The director of the division may file a complaint
122 with the administrative hearing commission, as provided
123 under chapter 621, seeking to remove an administrative law
124 judge from office if the administrative law judge:

125 (1) Has committed any felony, as defined in
126 subdivision (26) of section 556.061, or misdemeanor, as
127 defined in subdivision (33) of section 556.061, regardless
128 of whether a criminal charge has been filed;

129 (2) Has been convicted, or has entered a plea of
130 guilty or nolo contendere in a criminal prosecution under
131 the laws of any state, the United States, or of any country,
132 regardless of whether sentence is imposed;

133 (3) Is guilty of misconduct, habitual intoxication,
134 willful neglect of duty, corruption in office, or
135 incompetency; or

136 (4) Has committed any act that involves moral
137 turpitude or oppression in office.

138 8. (1) Prior to the filing of the complaint, the
139 director shall notify the administrative law judge in
140 writing of the reasons for the complaint.

141 (2) If the reason for the complaint is willful neglect
142 of duty or incompetency, the administrative law judge shall

143 have ninety days from the date the complaint was made to
144 remedy the complained of behavior. If such complained of
145 behavior has not been remedied after ninety days, the
146 director may file the complaint with the administrative
147 hearing commission as provided by chapter 621.

148 9. After the director has filed a complaint with the
149 administrative hearing commission, the proceedings shall be
150 conducted in accordance with the provisions of chapter 621.
151 Upon a finding by the administrative hearing commission that:

152 (1) The grounds, provided in subsection 7 of this
153 section, for disciplinary action are met, the director may,
154 singly or in combination, issue the following disciplinary
155 actions against the administrative law judge: removal from
156 office, suspension from the performance of duties for a
157 period of time, or other discipline as determined by the
158 director. The director shall make a record of written
159 findings of fact and conclusions of law with respect to the
160 issues and shall put a copy of such record in the
161 administrative law judge's permanent file; or

162 (2) There are no grounds for disciplinary action, the
163 administrative law judge shall immediately resume duties and
164 shall receive any attorney's fees due under section 536.087.

165 10. Notwithstanding any provision of this section to
166 the contrary, the following events or acts by an
167 administrative law judge are deemed to be an immediate
168 threat to the administration of the provisions of chapter
169 287 and shall be considered cause for suspension without pay
170 of the administrative law judge without notice, at the
171 discretion of the director:

172 (1) A crime for which the administrative law judge is
173 being held without bond for a period of more than fourteen
174 days;

175 (2) Suspension or revocation of a license to practice
176 law; or

177 (3) A declaration of incapacity by a court of
178 competent jurisdiction.

179 [9.] 11. No rule or portion of a rule promulgated
180 pursuant to the authority of this section shall become
181 effective unless it has been promulgated pursuant to the
182 provisions of chapter 536.

287.615. 1. The division may appoint or employ such
2 persons as may be necessary to the proper administration of
3 this chapter. All salaries to clerical employees shall be
4 fixed by the division and approved by the labor and
5 industrial relations commission. Beginning January 1, 2006,
6 the annual salary of each administrative law judge[,] and
7 administrative law judge in charge[, and chief legal
8 counsel] shall be as follows:

9 (1) [For any chief legal counsel located at the
10 division office in Jefferson City, Missouri, compensation at
11 two thousand dollars above eighty percent of the rate at
12 which an associate circuit judge is compensated;

13 (2)] For each administrative law judge, compensation
14 at ninety percent of the rate at which an associate division
15 circuit judge is compensated;

16 [(3)] (2) For each administrative law judge in charge,
17 compensation at the same rate as an administrative law judge
18 plus [five] ten thousand dollars.

19 2. Administrative law judges' and chief administrative
20 law judges' compensation shall be determined solely by the
21 rate outlined in this section and shall not increase when
22 pay raises for executive employees are appropriated.

23 3. The salary of the director of the division of
24 workers' compensation shall be set by the director of the
25 department of labor and industrial relations, but shall not

26 be less than the salary plus two thousand dollars of an
27 administrative law judge in charge. The appointees in each
28 classification shall be selected as nearly as practicable in
29 equal numbers from each of the two political parties casting
30 the highest and the next highest number of votes for
31 governor in the last preceding state election.

287.640. 1. The division of workers' compensation
2 shall be provided with offices at the state capital, and St.
3 Louis, St. Joseph, Cape Girardeau, Joplin, Springfield and
4 Kansas City, and in such other places, not to exceed two, as
5 the division deems necessary for the efficient disposition
6 of the business of the division, in which offices its
7 records shall be kept, but its permanent records shall be
8 kept in Jefferson City. The division shall also be provided
9 with the necessary office furniture, books, stationery and
10 other supplies. The division and each of its appointees and
11 employees shall have reimbursed to them their actual
12 traveling expenses and disbursements in the discharge of
13 their duties while away from their regular offices and
14 places of residence, but the same shall not be paid until
15 verified by the affidavit of the person who incurred them
16 and approved by the division. All salaries, expenses and
17 costs under this chapter shall be paid monthly out of the
18 state treasury from the fund for the support of the division
19 of workers' compensation of the department of labor and
20 industrial relations.

21 2. (1) Unless the parties otherwise agree, all
22 original hearings shall be held in the county, or in a city
23 not part of any county, where the accident occurred, or in
24 any county, or such city, adjacent thereto, or if the
25 accident occurred outside of the state, then the hearing
26 shall be held in the county or city where the contract of
27 employment was made, or the county where employment of the

28 employee was principally localized. If venue cannot
29 otherwise be established by this subsection, then the
30 division shall determine the venue of the hearing. The
31 division shall determine the location of the hearing within
32 the county, or city not within a county, of venue.

33 (2) Notwithstanding subdivision (1) of this subsection
34 and any other provision of this chapter requiring any
35 hearing to be held in person at a specified location, the
36 division or any administrative law judge acting through the
37 division may hold a hearing via electronic means, allowing
38 the parties, attorneys, and the judge to be remote.

39 3. Hearings before the labor and industrial relations
40 commission on review may be held at the place the commission
41 determines, having due regard for the convenience of the
42 parties.

287.690. Prior to December 31, 1993, for the purpose
2 of providing for the expense of administering this chapter,
3 every person, partnership, association, corporation, whether
4 organized under the laws of this or any other state or
5 country, the state of Missouri, including any of its
6 departments, divisions, agencies, commissions, and boards or
7 any political subdivisions of the state who self-insure or
8 hold themselves out to be any part self-insured, company,
9 mutual company, the parties to any interindemnity contract,
10 or other plan or scheme, and every other insurance carrier,
11 insuring employers in this state against liability for
12 personal injuries to their employees, or for death caused
13 thereby, under this chapter, shall pay, as provided in this
14 chapter, tax upon the net deposits, net premiums or net
15 assessments received, whether in cash or notes in this
16 state, or on account of business done in this state, for
17 such insurance in this state at the rate of two percent in
18 lieu of all other taxes on such net deposits, net premiums

19 or net assessments, which amount of taxes shall be assessed
20 and collected as herein provided. Beginning October 31,
21 1993, and every year thereafter, the director of the
22 division of workers' compensation shall estimate the amount
23 of revenue required to administer this chapter and the
24 director shall determine the rate of tax to be paid in the
25 following calendar year pursuant to this section commencing
26 with the calendar year beginning on January 1, 1994. If the
27 balance of the fund estimated to be on hand on December
28 thirty-first of the year each tax rate determination is made
29 is less than one hundred ten percent of the previous year's
30 expenses plus any additional revenue required due to new
31 statutory requirements given to the division by the general
32 assembly, then the director shall impose a tax not to exceed
33 two percent in lieu of all other taxes on net deposits, net
34 premiums or net assessments, rounded up to the nearest [~~one-~~
35 half] one-tenth of a percentage point, which amount of taxes
36 shall be assessed and collected as herein provided. The net
37 premium equivalent for individual self-insured employers
38 shall be based on average rate classifications calculated by
39 the department of commerce and insurance as taken from
40 premium rates filed by the twenty insurance companies
41 providing the greatest volume of workers' compensation
42 insurance coverage in this state. For employers qualified
43 to self-insure their liability pursuant to this chapter, the
44 rates filed by such group of employers in accordance with
45 subsection 4 of section 287.280 shall be the net premium
46 equivalent. Any group of political subdivisions of this
47 state qualified to self-insure their liability pursuant to
48 this chapter as authorized by section 537.620 may choose
49 either the average rate classification method or the filed
50 rate method, provided that the method used may only be
51 changed once without receiving the consent of the director

52 of the division of workers' compensation. Every entity
53 required to pay the tax imposed pursuant to this section and
54 section 287.730 shall be notified by the division of
55 workers' compensation within ten calendar days of the date
56 of the determination of the rate of tax to be imposed for
57 the following year. Net premiums, net deposits or net
58 assessments are defined as gross premiums, gross deposits or
59 gross assessments less cancelled or returned premiums,
60 premium deposits or assessments and less dividends or
61 savings, actually paid or credited.

287.715. 1. For the purpose of providing for revenue
2 for the second injury fund, every authorized self-insurer,
3 and every workers' compensation policyholder insured
4 pursuant to the provisions of this chapter, shall be liable
5 for payment of an annual surcharge in accordance with the
6 provisions of this section. The annual surcharge imposed
7 under this section shall apply to all workers' compensation
8 insurance policies and self-insurance coverages which are
9 written or renewed on or after April 26, 1988, including the
10 state of Missouri, including any of its departments,
11 divisions, agencies, commissions, and boards or any
12 political subdivisions of the state who self-insure or hold
13 themselves out to be any part self-insured. Notwithstanding
14 any law to the contrary, the surcharge imposed pursuant to
15 this section shall not apply to any reinsurance or
16 retrocessional transaction.

2. Beginning October 31, 2005, and each year
18 thereafter, the director of the division of workers'
19 compensation shall estimate the amount of benefits payable
20 from the second injury fund during the following calendar
21 year and shall calculate the total amount of the annual
22 surcharge to be imposed during the following calendar year
23 upon all workers' compensation policyholders and authorized

24 self-insurers. The amount of the annual surcharge
25 percentage to be imposed upon each policyholder and self-
26 insured for the following calendar year commencing with the
27 calendar year beginning on January 1, 2006, shall be set at
28 and calculated against a percentage, not to exceed three
29 percent, of the policyholder's or self-insured's workers'
30 compensation net deposits, net premiums, or net assessments
31 for the previous policy year, rounded up to the nearest [one-
32 half] one-tenth of a percentage point, that shall generate,
33 as nearly as possible, one hundred ten percent of the moneys
34 to be paid from the second injury fund in the following
35 calendar year, less any moneys contained in the fund at the
36 end of the previous calendar year. All policyholders and
37 self-insurers shall be notified by the division of workers'
38 compensation within ten calendar days of the determination
39 of the surcharge percent to be imposed for, and paid in, the
40 following calendar year. The net premium equivalent for
41 individual self-insured employers shall be based on average
42 rate classifications calculated by the department of
43 commerce and insurance as taken from premium rates filed by
44 the twenty insurance companies providing the greatest volume
45 of workers' compensation insurance coverage in this state.
46 For employers qualified to self-insure their liability
47 pursuant to this chapter, the rates filed by such group of
48 employers in accordance with subsection 4 of section 287.280
49 shall be the net premium equivalent. Any group of political
50 subdivisions of this state qualified to self-insure their
51 liability pursuant to this chapter as authorized by section
52 537.620 may choose either the average rate classification
53 method or the filed rate method, provided that the method
54 used may only be changed once without receiving the consent
55 of the director of the division of workers' compensation.
56 The director may advance funds from the workers'

57 compensation fund to the second injury fund if surcharge
58 collections prove to be insufficient. Any funds advanced
59 from the workers' compensation fund to the second injury
60 fund must be reimbursed by the second injury fund no later
61 than December thirty-first of the year following the
62 advance. The surcharge shall be collected from
63 policyholders by each insurer at the same time and in the
64 same manner that the premium is collected, but no insurer or
65 its agent shall be entitled to any portion of the surcharge
66 as a fee or commission for its collection. The surcharge is
67 not subject to any taxes, licenses or fees.

68 3. All surcharge amounts imposed by this section shall
69 be deposited to the credit of the second injury fund.

70 4. Such surcharge amounts shall be paid quarterly by
71 insurers and self-insurers, and insurers shall pay the
72 amounts not later than the thirtieth day of the month
73 following the end of the quarter in which the amount is
74 received from policyholders. If the director of the
75 division of workers' compensation fails to calculate the
76 surcharge by the thirty-first day of October of any year for
77 the following year, any increase in the surcharge ultimately
78 set by the director shall not be effective for any calendar
79 quarter beginning less than sixty days from the date the
80 director makes such determination.

81 5. If a policyholder or self-insured fails to make
82 payment of the surcharge or an insurer fails to make timely
83 transfer to the division of surcharges actually collected
84 from policyholders, as required by this section, a penalty
85 of one-half of one percent of the surcharge unpaid, or
86 untransferred, shall be assessed against the liable
87 policyholder, self-insured or insurer. Penalties assessed
88 under this subsection shall be collected in a civil action

89 by a summary proceeding brought by the director of the
90 division of workers' compensation.

91 6. Notwithstanding subsection 2 of this section to the
92 contrary, the director of the division of workers'
93 compensation shall collect a supplemental surcharge not to
94 exceed one percent for calendar years 2014 to 2026 of the
95 policyholder's or self-insured's workers' compensation net
96 deposits, net premiums, or net assessments for the previous
97 policy year, rounded up to the nearest one-quarter of a
98 percentage point. All policyholders and self-insurers shall
99 be notified by the division of the supplemental surcharge
100 percentage to be imposed for such period of time as part of
101 the notice provided in subsection 2 of this section. The
102 provisions of this subsection shall expire on December 31,
103 2026.

104 7. Funds collected under the provisions of this
105 chapter shall be the sole funding source of the second
106 injury fund.

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

4 (1) "Administrative law judge", any person appointed
5 pursuant to section 287.610 or section 621.015, or any
6 person who hereafter may have by law all of the powers now
7 vested by law in administrative law judges appointed under
8 the provisions of the workers' compensation law;

9 (2) "Beneficiary", a surviving spouse married to the
10 deceased administrative law judge or legal advisor of the
11 division of workers' compensation continuously for a period
12 of at least two years immediately preceding the
13 administrative law judge's or legal advisor's death and also
14 on the day of the last termination of such person's
15 employment as an administrative law judge or legal advisor

16 for the division of workers' compensation, or if there is no
17 surviving spouse eligible to receive benefits, any minor
18 child of the deceased administrative law judge or legal
19 advisor, or any child of the deceased administrative law
20 judge or legal advisor who, regardless of age, is unable to
21 support himself because of intellectual disability, disease
22 or disability, or any physical handicap or disability, who
23 shall share in the benefits on an equal basis with all other
24 beneficiaries;

25 (3) "Benefit", a series of equal monthly payments
26 payable during the life of an administrative law judge or
27 legal advisor of the division of workers' compensation
28 retiring pursuant to the provisions of sections 287.812 to
29 287.855 or payable to a beneficiary as provided in sections
30 287.812 to 287.850;

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

33 (5) ["Chief legal counsel", any person appointed or
34 employed under section 287.615 to serve in the capacity of
35 legal counsel to the division;

36 [(6)] "Division", the division of workers' compensation
37 of the state of Missouri;

38 [(7)] (6) "Legal advisor", any person appointed or
39 employed pursuant to section 287.600[,] or 287.615[, or
40 287.616] to serve in the capacity as a legal advisor or an
41 associate administrative law judge and any person appointed
42 pursuant to section 286.010 or pursuant to section 295.030,
43 and any attorney or legal counsel appointed or employed
44 pursuant to section 286.070;

45 [(8)] (7) "Salary", the total annual compensation paid
46 for personal services as an administrative law judge or
47 legal advisor, or both, of the division of workers'

48 compensation by the state or any of its political
49 subdivisions.

287.835. [1. No benefits provided pursuant to
2 sections 287.812 to 287.855 shall be paid to any person who
3 has been removed from office by impeachment or for
4 misconduct, nor to any person who has been disbarred from
5 the practice of law, nor to the beneficiary of any such
6 persons.

7 [2.] The board of trustees of the Missouri state
8 employees' retirement system shall cease paying benefits to
9 any beneficiary of an administrative law judge or legal
10 advisor who is charged with the intentional killing of the
11 administrative law judge or legal advisor without legal
12 excuse or justification. A beneficiary who is convicted of
13 such charges shall no longer be entitled to receive
14 benefits. If the beneficiary is not convicted of such
15 charge, the board shall resume payment of benefits and shall
16 pay the beneficiary any benefits that were suspended pending
17 resolution of such charge.

621.045. 1. The administrative hearing commission
2 shall conduct hearings and make findings of fact and
3 conclusions of law in those cases when, under the law, a
4 license issued by any of the following agencies may be
5 revoked or suspended or when the licensee may be placed on
6 probation or when an agency refuses to permit an applicant
7 to be examined upon his or her qualifications or refuses to
8 issue or renew a license of an applicant who has passed an
9 examination for licensure or who possesses the
10 qualifications for licensure without examination:

11 Missouri State Board of Accountancy
12 Missouri State Board for Architects, Professional
13 Engineers, Professional Land Surveyors and Landscape
14 Architects

15 Board of Barber Examiners
16 Board of Cosmetology
17 Board of Chiropody and Podiatry
18 Board of Chiropractic Examiners
19 Missouri Dental Board
20 Board of Embalmers and Funeral Directors
21 Board of Registration for the Healing Arts
22 Board of Nursing
23 Board of Optometry
24 Board of Pharmacy
25 Missouri Real Estate Commission
26 Missouri Veterinary Medical Board
27 Supervisor of Liquor Control
28 Department of Health and Senior Services
29 Department of Commerce and Insurance
30 Department of Mental Health
31 Board of Private Investigator Examiners.

32 2. If in the future there are created by law any new
33 or additional administrative agencies which have the power
34 to issue, revoke, suspend, or place on probation any
35 license, then those agencies are under the provisions of
36 this law.

37 3. The administrative hearing commission is authorized
38 to conduct hearings and make findings of fact and
39 conclusions of law in those cases brought by the Missouri
40 state board for architects, professional engineers,
41 professional land surveyors and landscape architects against
42 unlicensed persons under section 327.076.

43 4. The administrative hearing commission is authorized
44 to conduct hearings and make findings of fact and
45 conclusions of law in those cases brought by the division of
46 workers' compensation of the department of labor and

47 industrial relations against administrative law judges under
48 section 287.610.

49 5. Notwithstanding any other provision of this section
50 to the contrary, after August 28, 1995, in order to
51 encourage settlement of disputes between any agency
52 described in subsection 1 or 2 of this section and its
53 licensees, any such agency shall:

54 (1) Provide the licensee with a written description of
55 the specific conduct for which discipline is sought and a
56 citation to the law and rules allegedly violated, together
57 with copies of any documents which are the basis thereof and
58 the agency's initial settlement offer, or file a contested
59 case against the licensee;

60 (2) If no contested case has been filed against the
61 licensee, allow the licensee at least sixty days, from the
62 date of mailing, to consider the agency's initial settlement
63 offer and to contact the agency to discuss the terms of such
64 settlement offer;

65 (3) If no contested case has been filed against the
66 licensee, advise the licensee that the licensee may, either
67 at the time the settlement agreement is signed by all
68 parties, or within fifteen days thereafter, submit the
69 agreement to the administrative hearing commission for
70 determination that the facts agreed to by the parties to the
71 settlement constitute grounds for denying or disciplining
72 the license of the licensee; and

73 (4) In any contact under this subsection by the agency
74 or its counsel with a licensee who is not represented by
75 counsel, advise the licensee that the licensee has the right
76 to consult an attorney at the licensee's own expense.

77 **[5.]** 6. If the licensee desires review by the
78 administrative hearing commission under subdivision (3) of
79 subsection **[4]** 5 of this section at any time prior to the

80 settlement becoming final, the licensee may rescind and
81 withdraw from the settlement and any admissions of fact or
82 law in the agreement shall be deemed withdrawn and not
83 admissible for any purposes under the law against the
84 licensee. Any settlement submitted to the administrative
85 hearing commission shall not be effective and final unless
86 and until findings of fact and conclusions of law are
87 entered by the administrative hearing commission that the
88 facts agreed to by the parties to the settlement constitute
89 grounds for denying or disciplining the license of the
90 licensee.

91 [6.] 7. When a holder of a license, registration,
92 permit, or certificate of authority issued by the division
93 of professional registration or a board, commission, or
94 committee of the division of professional registration
95 against whom an affirmative decision is sought has failed to
96 plead or otherwise respond in the contested case and
97 adequate notice has been given under sections 536.067 and
98 621.100 upon a properly pled writing filed to initiate the
99 contested case under this chapter or chapter 536, a default
100 decision shall be entered against the licensee without
101 further proceedings. The default decision shall grant such
102 relief as requested by the division of professional
103 registration, board, committee, commission, or office in the
104 writing initiating the contested case as allowed by law.
105 Upon motion stating facts constituting a meritorious defense
106 and for good cause shown, a default decision may be set
107 aside. The motion shall be made within a reasonable time,
108 not to exceed thirty days after entry of the default
109 decision. "Good cause" includes a mistake or conduct that
110 is not intentionally or recklessly designed to impede the
111 administrative process.