

An Act

ENROLLED SENATE
BILL NO. 472

By: Daniels of the Senate

and

Kannady of the House

An Act relating to the Workers' Compensation Court of Existing Claims; amending Sections 165, Chapter 208, O.S.L. 2013, as last amended by Section 64, Chapter 476, O.S.L. 2019, and 169, Chapter 208, O.S.L. 2013, as amended by Section 56, Chapter 476, O.S.L. 2019 (85A O.S. Supp. 2020, Sections 122 and 400), which relate to cost of administering act and the Workers' Compensation Court; directing apportionment of certain funds by the Oklahoma Tax Commission; deleting obsolete language; authorizing employment of special judge for certain purposes; specifying compensation of special judge; updating statutory language; and declaring an emergency.

SUBJECT: Workers' Compensation Court of Existing Claims

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 165, Chapter 208, O.S.L. 2013, as last amended by Section 64, Chapter 476, O.S.L. 2019 (85A O.S. Supp. 2020, Section 122), is amended to read as follows:

Section 122. A. The Workers' Compensation Commission Revolving Fund established by Section 28.1 of this title shall be used for the costs of administering this act and for other purposes as authorized by law.

B. For the purpose of providing funds for the Workers' Compensation Commission Revolving Fund, for the Workers' Compensation Administrative Fund created in Section 401.1 of this title, for the Multiple Injury Trust Fund created in Section 28 of this title, and to fund other provisions within this title, the following tax rates shall apply:

1. Each mutual or interinsurance association, stock company, CompSource Mutual Insurance Company or other insurance carrier writing workers' compensation insurance in this state shall pay to the Oklahoma Tax Commission an assessment at a rate of one percent (1%) of all gross direct premiums written during each quarter of the calendar year for workers' compensation insurance on risks located in this state after deducting from such gross direct premiums, return premiums, unabsorbed portions of any deposit premiums, policy dividends, safety refunds, savings and other similar returns paid or credited to policyholders. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of each quarter of the calendar year in which such gross direct premium is collected or collectible. Contributions made by insurance carriers and CompSource Mutual Insurance Company, under the provisions of this section, shall be considered for the purpose of computing workers' compensation rates; and

2. When an employer is authorized to become a self-insurer, the Commission shall so notify the Tax Commission, giving the effective date of such authorization. The Tax Commission shall then assess and collect from the employers carrying their own risk an assessment at the rate of two percent (2%) of the total compensation for permanent total disability awards, permanent partial disability awards and death benefits paid out during each quarter of the calendar year by the employers. Such assessment shall be payable by the employers and collected by the Tax Commission according to the provisions of this section regarding payment and collection of the assessment created in paragraph 1 of this subsection.

C. It shall be the duty of the Tax Commission to collect the payments provided for in this title. The Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Tax Commission may

also enforce payments by proceeding in accordance with the provisions of Section 98 of this title.

D. The Tax Commission shall pay monthly to the State Treasurer to the credit of the Multiple Injury Trust Fund all monies collected under the provisions of this section less the annual amounts which shall be apportioned by the Oklahoma Tax Commission as follows:

1. Five Million Dollars (\$5,000,000.00) shall be payable in equal monthly installments to the credit of the Workers' Compensation Commission Revolving Fund established in Section 28.1 of this title for the fiscal year ending June 30, 2016, Three Million Dollars (\$3,000,000.00) for the fiscal year ending June 30, 2017, and Four Million Dollars (\$4,000,000.00) for the fiscal year ending June 30, 2020, and for all subsequent years to be used to implement the provisions of this title; and

2. Four Million Dollars (\$4,000,000.00) shall be payable in equal monthly installments to the credit of the Workers' Compensation Administrative Fund established in Section 401.1 of this title for the fiscal year ending June 30, 2016, Three Million Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal year ending June 30, 2017, Three Million Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal year ending June 30, 2018, Three Million Dollars (\$3,000,000.00) for the fiscal year ending June 30, 2019, ~~and~~ One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) for the fiscal year ending June 30, 2020, One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) for the fiscal year ending June 30, 2022, and for all subsequent years during the existence of the Court of Existing Claims.

Monies deposited in the Workers' Compensation Administrative Fund shall be used by the Workers' Compensation Court of Existing Claims to implement provisions provided for in this title.

E. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payments made pursuant to this section.

SECTION 2. AMENDATORY Section 169, Chapter 208, O.S.L. 2013, as amended by Section 56, Chapter 476, O.S.L. 2019 (85A O.S. Supp. 2020, Section 400), is amended to read as follows:

Section 400. A. The Workers' Compensation Court shall be renamed the Workers' Compensation Court of Existing Claims for the purpose of hearing disputes relating to claims that arise before February 1, 2014. The Court shall consist of the existing judges for the remainder of his or her term. Each judge of the Court shall continue to serve as the appointment to a designated position on the Court. The terms of the judges by position number shall expire on the following dates:

Position 4 shall expire 7-1-20.

Position 5 shall expire 7-1-20.

Position 8 shall expire 7-1-20.

Position 9 shall expire 7-1-20.

B. Effective July 1, 2020, the Workers' Compensation Court of Existing Claims shall consist of one judge to be appointed by the Governor, with confirmation by the Senate. The judge shall be appointed for a term to expire on July 1, 2022. The Governor shall select the judge from a list of three applicants submitted to the Governor by the Judicial Nominating Commission. If the list is not acceptable to the Governor, the Governor may request from the Judicial Nominating Commission a list of names of three additional applicants. Any present judge of the Court of Existing Claims may apply to the Judicial Nominating Commission for appointment to fill any position authorized by this section.

C. A judge may be removed for cause by the Court on the Judiciary prior to the expiration of his or her term.

D. Each judge shall receive a salary equal to that paid to a district judge of this state, and shall devote full time to his or her duties and shall not engage in the private practice of law during the term in office.

E. If a vacancy occurs on the Court of Existing Claims, the Governor shall appoint a judge to serve the remainder of the term from a list of three applicants submitted to the Governor by the Judicial Nominating Commission, with confirmation of the State Senate. If the list is not acceptable to the Governor, the Governor may request from the Judicial Nominating Commission a list of the names of three additional applicants.

F. 1. Effective January 1, 2020, the Governor shall appoint an Administrator of the Court of Existing Claims, who shall serve at the pleasure of the Governor. The Administrator shall be appointed by the Governor with the advice and consent of the Senate. The compensation for the Administrator shall be set at ninety percent (90%) of the compensation of a district court judge.

2. The Administrator shall employ and supervise the work of employees of the Court and shall have the authority to expend funds and contract on behalf of the Court. The Administrator may contract with the Workers' Compensation Commission to provide support services or personnel needs necessary to carry out the purposes of the Court and shall supervise the work of any such personnel as necessary to maintain the Court as a Court of Record.

~~3. Until January 1, 2020, the individual serving as Administrator on the effective date of this act shall continue to serve in that capacity.~~

G. The Court of Existing Claims shall contract with the Workers' Compensation Commission to integrate its case management and records Information Technology System into the system of the Workers' Compensation Commission with such integration to be completed on or before July 1, 2022. The Court shall be entitled to any fees generated for the retrieval of such data.

H. The Court shall operate by the rules adopted by the Workers' Compensation Court prior to ~~the effective date of this act~~ February 1, 2014.

I. The Court is hereby designated and confirmed as a court of record, with respect to any matter within the limits of its jurisdiction, and within such limits the judges thereof shall possess the powers and prerogatives of the judges of the other courts of record of this state, including the power to punish for contempt those persons who disobey a subpoena, or refuse to be sworn or to answer as a witness, when lawfully ordered to do so.

J. The principal office of the Court shall be situated in the City of Oklahoma City in quarters assigned by the Office of Management and Enterprise Services. The Court may hold hearings in any city of this state.

K. All county commissioners and presiding district judges of this state shall make quarters available for the conducting of hearings by a judge of the Court upon request by the Court.

L. Judges of the Workers' Compensation Court of Existing Claims may punish for direct contempt pursuant to Sections 565, 565.1 and 566 of Title 21 of the Oklahoma Statutes.

M. The Court shall be vested with jurisdiction over all claims filed pursuant to the Workers' Compensation Code or previous statute in effect on the date of an injury that occurred before February 1, 2014. All claims so filed shall be heard by the judge sitting without a jury. The Court shall have full power and authority to determine all questions in relation to payment of claims for compensation under the provisions of the Workers' Compensation Code or previous statute in effect on the date of an injury that occurred before February 1, 2014. The Court, upon application of either party, shall order a hearing. Upon a hearing, either party may present evidence and be represented by counsel. The decision of the Court shall be final as to all questions of fact and law; provided, the decision of the Court may be appealed to the Court en banc or the Supreme Court as provided by the Workers' Compensation Code or previous statute in effect on the date of an injury that occurred before February 1, 2014. In the event that an insufficient number of active judges are available to comprise the three-judge en banc panel, retired or former judges of the district court, Workers' Compensation Court or Workers' Compensation Court of Existing Claims may be designated by the Presiding Judge of the Court of Existing Claims as eligible to serve on such panel. The Governor shall provide to the Court of Existing Claims a list of designated judges eligible for service on the Court en banc. The decision of the Court shall be issued within thirty (30) days following the submission of the case by the parties. The power and jurisdiction of the Court over each case shall be continuing and it may, from time to time, make such modifications or changes with respect to former findings or orders relating thereto if, in its opinion, it may be justified.

N. For an injury occurring before February 1, 2014, all benefits and procedures to obtain benefits shall be determined by

the workers' compensation law of this state in effect on the date of the injury.

O. All accrued rights and penalties incurred pursuant to a final order of the Workers' Compensation Court shall be preserved. No accrued right, penalty incurred, or proceeding begun by virtue of a statute repealed by this act shall be abrogated by the terms of this act.

P. Annually, on or before the first day of July, commencing with July 2019, the Administrator shall prepare and submit a report for the prior calendar year to the Governor, the Chief Justice of the Supreme Court, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives which shall include a statement of the number of awards made and the causes of the accidents leading to the injuries for which the awards were made, total work load data of the Court, a detailed report of the work load of the judges of the Court, a detailed statement of the expenses of the office of the Administrator of Workers' Compensation Court of Existing Claims, together with any other matter which the Administrator deems proper to report to the Governor, including any recommendations he or she may desire to make.

Q. Subject to the availability of funds, the Judge of the Court of Existing Claims may employ one at-will full- or part-time special workers' compensation judge with jurisdiction to hear cases as set forth in subsection M of this section and as may be assigned by the Judge. The special workers' compensation judge shall receive compensation for such services in accordance with the provisions of Section 92.1A of Title 20 of the Oklahoma Statutes.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 19th day of May, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____