

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 230, Page 2,
2 Section 209.625, Line 27, by inserting after said section and line the following:

3
4 "287.610. 1. After August 28, 2005, the division may appoint additional administrative law
5 judges for a maximum of forty authorized administrative law judges. Notwithstanding the
6 provisions of section 36.025 to the contrary, after August 28, 2019, all administrative law judges
7 appointed by the division and all administrative law judges serving as of August 28, 2019, shall be
8 subject to a defined term as provided in this section. The terms of those serving as of August 28,
9 2019, shall be staggered based on their total months of service as an administrative law judge. The
10 terms of the thirteen administrative law judges with the most months of service shall be two years.
11 The terms of the thirteen administrative law judges with the next most months of service shall be
12 four years. The terms of the administrative law judges appointed and not previously referenced in
13 this subsection shall be six years. Thereafter, all terms of service shall be for six years. No
14 administrative law judge shall serve beyond his or her term unless reappointed by the division. Any
15 person appointed to fill a vacancy remaining in any term may complete such term.

16 2. Appropriations shall be based upon necessity, measured by the requirements and needs of
17 each division office. Administrative law judges shall be duly licensed lawyers under the laws of this
18 state. Administrative law judges shall not practice law or ~~[do]~~ engage in the business of law
19 [business] and shall devote their whole time to the duties of their office. The director of the division
20 of workers' compensation shall publish and maintain on the division's website the appointment dates
21 or initial dates of service for all administrative law judges.

22 ~~[2-]~~ 3. The thirteen administrative law judges with the most ~~[years]~~ months of service shall
23 be subject to a retention vote ~~[on August 28, 2008]~~ in September 2019. The next thirteen
24 administrative law judges with the most ~~[years]~~ months of service in descending order shall be
25 subject to a retention vote ~~[on August 28, 2012]~~ in September 2022. Administrative law judges
26 appointed and not previously referenced in this subsection shall be subject to a retention vote ~~[on~~
27 ~~August 28, 2016]~~ in September 2025. Subsequent retention votes for each administrative law judge
28 shall be held in like manner every ~~[twelve]~~ three years thereafter. Under subsection 8 of this
29 section, any administrative law judge who has received two or more ~~[votes]~~ successive
30 recommendations of no confidence under performance audits by the committee, performance audits
31 by the director of the division of workers' compensation, or by operation of law, or by a combination
32 of any such methods, shall not receive a vote of retention.

33 ~~[3-]~~ 4. The administrative law judge review committee members shall not have any direct or
34 indirect employment or financial connection with a workers' compensation insurance company,
35 claims adjustment company, health care provider nor be a practicing workers' compensation
36 attorney. All members of the committee shall have a working knowledge of workers' compensation.

Action Taken _____ Date _____

1 ~~[4. The committee shall within thirty days of completing each performance audit make a~~
2 ~~recommendation of confidence or no confidence for each administrative law judge.]~~

3 5. The administrative law judges appointed by the division shall only have jurisdiction to
4 hear and determine claims upon original hearing and shall have no jurisdiction upon any review
5 hearing, either in the way of an appeal from an original hearing or by way of reopening any prior
6 award, except to correct a clerical error in an award or settlement if the correction is made by the
7 administrative law judge within twenty days of the original award or settlement. The labor and
8 industrial relations commission may remand any decision of an administrative law judge for a more
9 complete finding of facts. The commission may also correct a clerical error in awards or settlements
10 within thirty days of its final award. With respect to original hearings, the administrative law judges
11 shall have such jurisdiction and powers as are vested in the division of workers' compensation under
12 other sections of this chapter, and wherever in this chapter the word "commission", "commissioners"
13 or "division" is used in respect to any original hearing, those terms shall mean the administrative
14 law judges appointed under this section. When a hearing is necessary upon any claim, the division
15 shall assign an administrative law judge to such hearing. Any administrative law judge shall have
16 power to approve contracts of settlement, as provided ~~[by]~~ under section 287.390, between the
17 parties to any compensation claim or dispute under this chapter pending before the division of
18 workers' compensation. Any award by an administrative law judge upon an original hearing shall
19 have the same force and effect, shall be enforceable in the same manner as provided elsewhere in
20 this chapter for awards by the labor and industrial relations commission, and shall be subject to
21 review as provided ~~[by]~~ under section 287.480.

22 6. Any of the administrative law judges employed ~~[pursuant to]~~ under this section may be
23 assigned on a temporary basis to the branch offices as necessary in order to ensure the proper
24 administration of this chapter.

25 7. All administrative law judges shall be required to participate in, on a continuing basis,
26 specific training that shall pertain to those elements of knowledge and procedure necessary for the
27 efficient and competent performance of the administrative law judges' required duties and
28 responsibilities. Such training requirements shall be established by the division subject to
29 appropriations and shall include training in medical determinations and records, mediation and legal
30 issues pertaining to workers' compensation adjudication. Such training may be credited toward any
31 continuing legal education requirements.

32 8. (1) The administrative law judge review committee shall conduct a performance audit of
33 all administrative law judges every two years. ~~[The audit results, stating the committee's~~
34 ~~recommendation of confidence or no confidence of each administrative law judge shall be sent to~~
35 ~~the governor no later than the first week of each legislative session immediately following such~~
36 ~~audit.] The committee shall, within thirty days of completing each performance audit, make a~~
37 ~~recommendation of confidence or no confidence for each administrative law judge. If the~~
38 ~~committee fails to present such recommendation within the time limit prescribed, such~~
39 ~~recommendation shall be made within thirty days thereafter by the director of the division of~~
40 ~~workers' compensation based on his or her own review. Failure of both parties to make a~~
41 ~~recommendation shall be deemed to be a recommendation of no confidence for purposes of this~~
42 ~~section. Any administrative law judge who has received [three] two or more [votes of no~~
43 ~~confidence under two successive performance audits by the committee] successive~~
44 ~~recommendations of no confidence under performance audits by the committee, performance audits~~
45 ~~by the director of the division of workers' compensation, or by operation of law, or by a combination~~
46 ~~of any such methods, may have [their] his or her appointment immediately withdrawn.~~

47 (2) The review committee shall consist of one member appointed by the president pro tem
48 of the senate, one member appointed by the minority leader of the senate, one member appointed by
49 the speaker of the house of representatives, and one member appointed by the minority leader of the

1 house of representatives. The governor shall appoint to the committee one member selected from
 2 the commission on retirement, removal, and discipline of judges. This member shall act as a
 3 member ex officio and shall not have a vote in the committee. The committee shall annually elect a
 4 chairperson from its members for a term of one year. The term of service for all members shall be
 5 two years and members shall be eligible for reappointment. Upon the expiration of such term, the
 6 position shall be vacant until a new appointment is made. The review committee members shall all
 7 serve without compensation. Necessary expenses for review committee members and all necessary
 8 support services to the review committee shall be provided by the division.

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

11 287.615. 1. The division may appoint or employ such persons as may be necessary to the
 12 proper administration of this chapter. All salaries ~~[to clerical employees]~~ of employees, including
 13 administrative law judges, shall be fixed by the division and ~~[approved by the labor and industrial~~
 14 ~~relations commission. Beginning January 1, 2006, the annual salary of each administrative law~~
 15 ~~judge, administrative law judge in charge, and chief legal counsel shall be as follows:~~

16 ~~—— (1) For any chief legal counsel located at the division office in Jefferson City, Missouri,~~
 17 ~~compensation at two thousand dollars above eighty percent of the rate at which an associate circuit~~
 18 ~~judge is compensated;~~

19 ~~—— (2) For each administrative law judge, compensation at ninety percent of the rate at which~~
 20 ~~an associate division circuit judge is compensated;~~

21 ~~—— (3) For each administrative law judge in charge, compensation at the same rate as an~~
 22 ~~administrative law judge plus five thousand dollars] shall be subject to appropriation.~~

23 2. The salary of the director of the division of workers' compensation shall be set by the
 24 director of the department of labor and industrial relations, but shall not be less than the salary plus
 25 two thousand dollars of an administrative law judge in charge. The appointees in each classification
 26 shall be selected as nearly as practicable in equal numbers from each of the two political parties
 27 casting the highest and the next highest number of votes for governor in the last preceding state
 28 election."; and

29
 30 Further amend said bill by amending the title, enacting clause, and intersectional references
 31 accordingly.