

HCS SB 71 -- WORKERS' COMPENSATION LAW

SPONSOR: Brown (Wiemann)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 9 to 6. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 5 to 3.

This bill stipulates that no workers' compensation insurance policy shall be approved by the Department of Insurance, Financial Institutions and Professional Registration if, when determining the premium to be paid by an employer, the insurer includes as part of the employer's payroll the following:

- 1) Monetary bonuses, paid by such employer to an employee, of up to 3% of the employee's yearly compensation from such employer; or
- 2) Contributions made by the employer to an employee's individual retirement account.

The bill modifies provisions of law regulating the terms of office, retention, performance audits, and salaries of administrative law judges (ALJs).

Under this bill, all administrative law judges will be divided into three groups as follows:

- 1) The 13 longest-tenured judges, in terms of months, shall serve a two year term and face a retention vote in September 2019 and every three years thereafter;
- 2) The next 13 longest-tenured judges shall serve a four year term and face a retention vote in September 2022 and every three years thereafter; and
- 3) The remaining judges shall serve a six year term and face a retention vote in September 2025 and every three years thereafter. All judges shall serve a six year term after the initial two, four, or six year term as specified in the bill.

This bill provides that any judge who has received two or more successive recommendations of no confidence under performance audits by the Administrative Law Judge Committee, performance audits by the Director of the Division of Workers' Compensation, or by other operation of law, or any combination thereof, shall not receive a vote of retention.

Currently, the Administrative Law Judge Review Committee is required to conduct a performance audit every two years of every

administrative law judge. This bill requires the committee to make a recommendation of confidence or no confidence for each judge within 30 days of completing each such audit. If the committee does not make a recommendation within the allotted time period, the director of the division shall make a recommendation based upon his or her own review. Failure of either party to make a recommendation shall be deemed to be a recommendation of no confidence.

Currently, any judge that receives three or more votes of no confidence under two successive performance audits by the committee may have his or her appointment immediately withdrawn. This bill provides that any judge that receives two or more successive recommendations of no confidence under performance audits by the committee, the director of the division, or by other operation of law, may have his or her appointment immediately withdrawn.

The bill provides that members of the Administrative Law Judge Review Committee shall be eligible for reappointment. Furthermore, upon the expiration of a term on the committee, the position shall be vacant until a new appointment is made.

The bill provides that the salaries of all employees of the division, including administrative law judges, shall be fixed by the division subject to appropriation.

**PROPOSERS:** Supporters say that this is good for both the employer and the employee. Employers currently pay employees with some bonuses rather than increasing total compensation in order to keep workers' compensation insurance down.

Testifying for the bill were Senator Brown and the Missouri Retailers Association.

**OPPOSERS:** Those who oppose the bill say that it is not a bad idea; however, including bonuses in the calculation of workers' compensation premiums is more of a comparison factor, not so much a consideration as part of payroll.

Testifying against the bill was the Missouri Insurance Coalition.