

AN ACT relating to gubernatorial appointments.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

➔Section 1. KRS 11.160 is amended to read as follows:

~~[(1)]~~ When a statute specifically requires Senate confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:

~~(1)~~~~(a)~~ All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority ***who makes the appointment***, shall deliver the name of the nominee to the clerk of the Senate upon appointment or no later than the fifteenth ~~[legislative]~~ day ***after the appointment***~~[of the next regular session of the General Assembly]~~. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session;~~[-]~~

~~(2)~~~~(b)~~ All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session. The Governor who makes the appointment, or other appointing authority ***who makes the appointment***, shall submit the name of the nominee, together with such accompanying information as may expedite the consideration of the appointment to the clerk of the Senate not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later;~~[-]~~

~~(3)~~~~(c)~~ For each nominee, the Governor who makes the appointment, or other

appointing authority who makes the appointment, shall deliver to the clerk of the Senate a letter of appointment. The letter of appointment shall be accompanied by documents~~[a resume]~~ which contain~~[contains]~~ at least the following information:

(a)~~[1]~~. The executive order making the appointment~~[Complete employment history of the nominee];~~

(b)~~[2]~~. A resume which includes at least:

1. Current and complete employment history of the nominee;

2. Current and complete educational background of the nominee;  
~~[and]~~

3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family; and

4. Current and complete information necessary to determining qualifications to serve, including but not limited to gender, race, political registration, current residence, current address, qualifications, and any other information germane to the position;

(c) A signed and dated statement from the nominee that he or she is familiar with the statutory requirements related to the appointment and meets those requirements and authorizes the Senate to proceed with its investigation of the nominee as set forth in subsection (5) of this section;

(d) Any information about the nominee relevant to the statutory requirements of the position;

(e) If the nominee is being appointed to a board or commission, a statement from the chair or executive director of the board that

*appointment of the nominee meets all statutory requirements of the board for the position; and*

*(f) A complete and current listing of the members of the board, and any other information relevant to the confirmation;[-]*

~~(d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within seven (7) days after making the appointment.]~~

*(4) The appointment and other documents shall be delivered by electronic transmission to the clerk of the Senate's Legislative Research Commission email address, and the date and time of the email delivery shall be dispositive in determining when notice of appointment was received by the Senate;*

~~(5)(e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The Department of Kentucky State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission;[-]~~

~~(6)(f) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation *if they meet the statutory requirements for that position.* During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees;[-]~~

~~(7)(g) If the Governor who makes the appointment, or other appointing authority~~

who makes the appointment, fails to submit the name of the nominee or if the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the applicable special or regular session of the General Assembly at which the appointment was to be confirmed. If the Senate declines to confirm the nominee, the position shall become vacant upon the date the Senate declined to confirm; and ~~]~~

~~(8)~~~~(h)~~ Any person not confirmed by the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date the Senate declined to confirm the nomination or the date of sine die adjournment if the Senate declined to consider the nomination.

~~[(2) When a statute specifically requires Senate and House of Representatives confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:~~

~~(a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the House of Representatives no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.~~

~~(b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session.~~

- ~~The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee to the clerk of the House of Representatives not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.~~
- ~~(c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the House of Representatives a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:~~
- ~~1. Complete employment history of the nominee;~~
  - ~~2. Complete educational background of the nominee; and~~
  - ~~3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.~~
- ~~(d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within seven (7) days after making the appointment.~~
- ~~(e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The Department of Kentucky State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.~~
- ~~(f) The confirmation shall originate in the House of Representatives. If the House of Representatives does not confirm an appointment, the Senate shall not~~

consider the appointment.

- ~~(g) When both the Senate and the House of Representatives have confirmed an appointment, the Senate shall notify the House of Representatives of the final approval. The clerk of the House shall then notify the Governor, or other appointing authority, and the appointee in writing of the General Assembly's action.~~
- ~~(h) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.~~
- ~~(i) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the House of Representatives or the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the regular session of the General Assembly at which the appointment was to be confirmed. If the House of Representatives or the Senate declines to confirm the nominee, the position shall become vacant upon the date that a chamber of the General Assembly first declined to confirm.~~
- ~~(j) Any person not confirmed by the House of Representatives or the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date that a chamber of the General Assembly first declined to confirm the nomination, or the date of sine die adjournment if the House of~~

~~Representatives or the Senate declined to consider the nomination.]~~

➔Section 2. KRS 342.213 is amended to read as follows:

- (1) The Governor shall make all appointments to the board, and appoint the administrative law judges and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him or her by the Workers' Compensation Nominating Commission.
- (2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:
  - (a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years;
  - (b)
    1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and
    2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.
    3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years;
  - (c) Appointments to fill the unexpired term of a member shall be for the remainder of the term; and
  - (d) The members shall annually select a chairman of the nominating commission.

- (3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.
- (4) The commissioner shall monitor the workload of the administrative law judges and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges, and when a vacancy occurs under other circumstances, the commissioner shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the commissioner.
- (5) (a) The Workers' Compensation Nominating Commission shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of the administrative law judges. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the



position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge.

- (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.
- (6) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
- (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the

previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he or she shall vacate the position.

- (8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars (\$100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

- (9) Notwithstanding this section, or any other provision of this chapter, the Governor shall not take any action related to the appointment or reappointment of an administrative law judge, board member, or member of the Workers' Compensation Nominating Commission, including accepting or rejecting a recommendation of retention of an administrative law judge, filling a vacancy, or selecting from a list of candidates, if the term of the Governor is set to expire prior to the expiration of the term of the administrative law judge, board member, or Workers' Compensation Nominating Commission member that is the subject of the recommendation of retention, vacancy, or list of candidates.**