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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **3873**

- 03/15/2018 Authored by Albright and Mahoney
- 03/21/2018 The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform
- 03/21/2018 Adoption of Report: Re-referred to the Committee on Government Operations and Elections Policy
- 03/29/2018 Adoption of Report: Amended and re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act

1.2 relating to workers' compensation; adopting recommendations of the Workers'

1.3 Compensation Advisory Council; modifying quorum requirements for the Workers'

1.4 Compensation Court of Appeals; increasing salaries of workers' compensation

1.5 judges; modifying use of reports filed; coordinating Office of Administrative

1.6 Hearings and Department of Labor and Industry interim filing requirements;

1.7 amending Minnesota Statutes 2016, sections 175A.05; 176.231, subdivision 9;

1.8 Minnesota Statutes 2017 Supplement, section 15A.083, subdivision 7; proposing

1.9 coding for new law in Minnesota Statutes, chapter 176.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2017 Supplement, section 15A.083, subdivision 7, is

1.12 amended to read:

1.13 Subd. 7. **Workers' Compensation Court of Appeals and compensation judges.**

1.14 Salaries of judges of the Workers' Compensation Court of Appeals are ~~98.52~~ 105 percent

1.15 of the salary for ~~district court~~ workers' compensation judges of the Office of Administrative

1.16 Hearings. The salary of the chief judge of the Workers' Compensation Court of Appeals is

1.17 ~~98.52~~ 107 percent of the salary for ~~a chief district court judge~~ workers' compensation judges

1.18 of the Office of Administrative Hearings. Salaries of compensation judges are 98.52 percent

1.19 of the salary of district court judges.

1.20 **EFFECTIVE DATE.** This section is effective June 1, 2018.

1.21 Sec. 2. Minnesota Statutes 2016, section 175A.05, is amended to read:

1.22 **175A.05 QUORUM.**

1.23 **Subdivision 1. Judges' quorum.** A majority of the judges of the Workers' Compensation

1.24 Court of Appeals shall constitute a quorum for the exercise of the powers conferred and the

2.1 duties imposed on the Workers' Compensation Court of Appeals except that all appeals  
2.2 shall be heard by no more than a panel of three of the five judges unless the case appealed  
2.3 is determined to be of exceptional importance by the chief judge prior to assignment of the  
2.4 case to a panel, or by a three-fifths vote of the judges prior to assignment of the case to a  
2.5 panel or after the case has been considered by the panel but prior to the service and filing  
2.6 of the decision.

2.7 Subd. 2. **Vacancy.** A vacancy shall not impair the ability of the remaining judges of the  
2.8 Workers' Compensation Court of Appeals to exercise all the powers and perform all of the  
2.9 duties of the Workers' Compensation Court of Appeals.

2.10 Subd. 3. **Retired judges.** Where the number of Workers' Compensation Court of Appeals  
2.11 judges available to hear a case is insufficient to constitute a quorum, the chief judge of the  
2.12 Workers' Compensation Court of Appeals may, with the retired judge's consent, assign a  
2.13 judge who is retired from the Workers' Compensation Court of Appeals or the Office of  
2.14 Administrative Hearings to hear any case properly assigned to a judge of the Workers'  
2.15 Compensation Court of Appeals. The retired judge assigned to the case may act on it with  
2.16 the full powers of the judge of the Workers' Compensation Court of Appeals. A retired  
2.17 judge performing this service shall receive pay and expenses in the amount and manner  
2.18 provided by law for judges serving on the court, less the amount of retirement pay the judge  
2.19 is receiving under chapter 352 or 490.

2.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.21 Sec. 3. Minnesota Statutes 2016, section 176.231, subdivision 9, is amended to read:

2.22 Subd. 9. **Uses ~~which~~ that may be made of reports.** (a) Reports filed with the  
2.23 commissioner under this section may be used in hearings held under this chapter, and for  
2.24 the purpose of state investigations and for statistics. These reports are available to the  
2.25 Department of Revenue for use in enforcing Minnesota income tax and property tax refund  
2.26 laws, and the information shall be protected as provided in chapter 270B.

2.27 (b) The division or Office of Administrative Hearings or Workers' Compensation Court  
2.28 of Appeals may permit the examination of its file by the employer, insurer, employee, or  
2.29 dependent of a deceased employee or any person who furnishes ~~written~~ signed authorization  
2.30 to do so from the employer, insurer, employee, or dependent of a deceased employee.  
2.31 Reports filed under this section and other information the commissioner has regarding  
2.32 injuries or deaths shall be made available to the Workers' Compensation Reinsurance  
2.33 Association for use by the association in carrying out its responsibilities under chapter 79.

3.1 (c) The division may provide the worker identification number assigned under section  
3.2 176.275, subdivision 1, without a written authorization required under paragraph (b) to an:

3.3 (1) attorney who represents one of the persons described in paragraph (b);

3.4 (2) attorney who represents an intervenor or potential intervenor under section 176.361;

3.5 (3) intervenor; or

3.6 (4) employee's assigned qualified rehabilitation consultant under section 176.102.

3.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.8 Sec. 4. **[176.2751] COORDINATION OF THE OFFICE OF ADMINISTRATIVE**  
3.9 **HEARINGS' CASE MANAGEMENT SYSTEM AND THE WORKERS'**  
3.10 **COMPENSATION IMAGING SYSTEM.**

3.11 Subdivision 1. **Definitions.** (a) For purposes of this section, the definitions in this  
3.12 subdivision apply unless otherwise specified.

3.13 (b) "Commissioner" means the commissioner of labor and industry.

3.14 (c) "Department" means the Department of Labor and Industry.

3.15 (d) "Document" includes all data, whether in electronic or paper format, that is filed  
3.16 with or issued by the office or department related to a claim-specific dispute resolution  
3.17 proceeding under this section.

3.18 (e) "Office" means the Office of Administrative Hearings.

3.19 Subd. 2. **Applicability.** This section governs coordination of the office's case management  
3.20 system and the workers' compensation imaging system pending completion of the workers'  
3.21 compensation modernization program. This section prevails over any conflicting provision  
3.22 in this chapter, Laws 1998, chapter 366, or corresponding rules.

3.23 Subd. 3. **Documents that must be filed with the office.** Except as provided in  
3.24 subdivision 4 and section 176.421, all documents that require action by the office under  
3.25 this chapter must be filed, electronically or in paper format, with the office as required by  
3.26 the chief administrative law judge. Filing a document that initiates or is filed in preparation  
3.27 for a proceeding at the office satisfies any requirement under this chapter that the document  
3.28 must be filed with the commissioner.

3.29 Subd. 4. **Documents that must be filed with the commissioner.** (a) The following  
3.30 documents must be filed directly with the commissioner in the format and manner prescribed  
3.31 by the commissioner:

4.1 (1) all requests for an administrative conference under section 176.106, regardless of  
4.2 the amount in dispute;

4.3 (2) a motion to intervene in an administrative conference that is pending at the department;

4.4 (3) any other document related to an administrative conference that is pending at the  
4.5 department;

4.6 (4) an objection to a penalty assessed by the commissioner or department;

4.7 (5) requests for medical and rehabilitation dispute certification under section 176.081,  
4.8 subdivision 1, paragraph (c), including related documents; and

4.9 (6) except as provided in this subdivision or subdivision 3, any other document required  
4.10 to be filed with the commissioner.

4.11 (b) The filing requirement in paragraph (a), clause (1), makes no changes to the  
4.12 jurisdictional provisions in section 176.106. A claim petition that contains only medical or  
4.13 rehabilitation issues, unless primary liability is disputed, is considered to be a request for  
4.14 an administrative conference and must be filed with the commissioner.

4.15 (c) The commissioner must refer a timely, unresolved objection to a penalty under  
4.16 paragraph (a), clause (4), to the office within 60 calendar days.

4.17 Subd. 5. **Form revision.** The commissioner must revise dispute resolution forms, in  
4.18 consultation with the chief administrative law judge, to reflect the filing requirements in  
4.19 this section.

4.20 Subd. 6. **Data privacy.** (a) All documents filed with or issued by the department or  
4.21 office under this chapter are private data on individuals and nonpublic data pursuant to  
4.22 chapter 13, except that the documents are available to the following:

4.23 (1) the office;

4.24 (2) the department;

4.25 (3) the employer;

4.26 (4) the insurer;

4.27 (5) the employee;

4.28 (6) the dependent of a deceased employee;

4.29 (7) an intervenor in the dispute;

4.30 (8) the attorney to a party in the dispute;

5.1 (9) a person who furnishes written authorization from the employer, insurer, employee,  
5.2 or dependent of a deceased employee; and

5.3 (10) a person, agency, or other entity allowed access to the documents under this chapter  
5.4 or other law.

5.5 (b) The office and department may post notice of scheduled proceedings on the agencies'  
5.6 Web sites and at their principal places of business in any manner that protects the employee's  
5.7 identifying information.

5.8 **EFFECTIVE DATE.** This section is effective the day following final enactment, except  
5.9 subdivisions 3 and 4 are effective June 1, 2018.