

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
3 BILL NO. 3562

By: Lepak of the House

and

Daniels of the Senate

4  
5  
6  
7 [ courts - Court of Civil Appeals - modifying  
8 authority of the Oklahoma Court of Civil Appeals -  
9 requiring establishment of a Court Calendar and  
specifying items to be included on the Court Calendar  
- effective date ]

10

11

12 AUTHOR: Remove Daniels as principal Senate Author, replace with  
13 Pugh as principal Senate Author and retain Daniels as  
Senate Coauthor

14 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause  
and entire bill and insert

15

16 "An Act related to judicial compensation; amending 20  
17 O.S. 2011, Sections 3.2 and 3.3, as amended by  
18 Section 1, Chapter 278, O.S.L. 2019 (20 O.S. Supp.  
19 2019, Section 3.3), which relate to Board on Judicial  
20 Compensation and changes in compensation; modifying  
21 procedures for approval or amendment of certain  
22 compensation; prohibiting certain changes in  
23 compensation from becoming effective without certain  
24 legislative action; and providing an effective date.

21

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

23 SECTION 1. AMENDATORY 20 O.S. 2011, Section 3.2, is  
24 amended to read as follows:

1 Section 3.2. A. There is hereby created the Board on Judicial  
2 Compensation. Pursuant to the provisions of Section 11 of Article  
3 VII of the Oklahoma Constitution, members of the State Judiciary  
4 shall receive compensation as shall be fixed by the Board on  
5 Judicial Compensation as provided in this act, ~~unless such~~  
6 ~~compensation is rejected~~ and such compensation may be approved or  
7 amended by law passed by a majority vote of each house of the  
8 Legislature. Such compensation shall not become effective if the  
9 Legislature does not approve or amend by law passed by a majority  
10 vote of each house. If the Governor vetoes such a law, the  
11 procedure shall be the same as for the veto of any other bill or  
12 joint resolution.

13 B. The Board shall be composed of seven (7) members. Two  
14 members shall be appointed by the President Pro Tempore of the  
15 Senate, two members shall be appointed by the Speaker of the House  
16 of Representatives, two members shall be appointed by the Governor,  
17 and one member shall be appointed by the Chief Justice of the  
18 Supreme Court. The members appointed by the President Pro Tempore  
19 of the Senate shall be from labor and civic organizations. The  
20 members appointed by the Speaker of the House of Representatives  
21 shall be from communications media and retail business. The members  
22 appointed by the Governor shall be from manufacturing and  
23 professional fields not otherwise specified. The member appointed  
24 by the Chief Justice of the Supreme Court shall be from agriculture.

1 No more than four members shall be from any one political party. No  
2 active or retired judge or attorney practicing law in any state may  
3 serve on the Board on Judicial Compensation.

4 C. The Administrative Office of the Courts shall provide such  
5 staff and support as is necessary for the Board on Judicial  
6 Compensation to carry out its duties. Requests from the Board for  
7 staff and support shall be coordinated through the Office of the  
8 Administrative Director of the Courts.

9 D. The members of the Board shall serve terms which run  
10 concurrently with the terms of the respective appointing authorities  
11 and shall serve at their pleasure.

12 E. The members of the Board shall select a chair and secretary  
13 and such other officers as they deem necessary.

14 F. Members of the Board shall serve without compensation but  
15 shall be reimbursed by their appointing authority for all actual and  
16 necessary expenses incurred in the performance of their duties in  
17 accordance with the State Travel Reimbursement Act.

18 SECTION 2. AMENDATORY 20 O.S. 2011, Section 3.3, as  
19 amended by Section 1, Chapter 278, O.S.L. 2019 (20 O.S. Supp. 2019,  
20 Section 3.3), is amended to read as follows:

21 Section 3.3. A. The Board on Judicial Compensation shall meet  
22 on the third Tuesday of September in every odd-numbered year in the  
23 Administrative Office of the Courts, at which meeting the Board  
24 shall review the compensation paid to members of the State Judiciary

1 and, if necessary, change the compensation. In its review, the  
2 Board shall consider various factors, including judicial  
3 compensation in other states, with an emphasis on states within the  
4 region, the value of comparable services performed in the private  
5 sector, compensation of attorneys in the private and public sectors,  
6 compensation of other state, county and municipal public officials,  
7 and changes in the cost of living. The Board may, at the call of  
8 the chair or upon a majority vote of its membership, hold such  
9 additional meetings as are necessary to carry out its official  
10 duties. Any change in judicial compensation shall be made by the  
11 Board not later than the third Tuesday of November in the odd-  
12 numbered year. Four members of the Board shall constitute a quorum  
13 and a majority vote of the quorum shall be necessary for the Board  
14 to act. If the Board recommends a change in judicial compensation,  
15 notice of such recommendation shall be provided to the Governor, the  
16 President Pro Tempore and the Chair of the Appropriations Committee  
17 of the Senate, and the Speaker and the Chair of the Appropriations  
18 and Budget Committee of the House of Representatives.

19 B. Any change in judicial compensation, ~~unless rejected~~ that is  
20 approved or amended by the Legislature as provided for in Section  
21 3.2 of this title, shall become effective on July 1 of the following  
22 calendar year. A change in judicial compensation shall not become  
23 effective if the Legislature does not approve or amend by law as  
24 provided for in Section 3.2 of this title. Any amendment passed by

1 a majority vote of each house of the Legislature shall become  
2 effective as provided by the amendment unless vetoed by the  
3 Governor.

4 SECTION 3. This act shall become effective November 1, 2020.”

5  
6 Passed the Senate the 14th day of May, 2020.

7  
8 \_\_\_\_\_  
Presiding Officer of the Senate

9  
10 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
11 2020.

12  
13 \_\_\_\_\_  
Presiding Officer of the House  
14 of Representatives

1 ENGROSSED HOUSE  
2 BILL NO. 3562

By: Lepak of the House

3 and

4 Daniels of the Senate

5  
6  
7 [ courts - Court of Civil Appeals - modifying  
8 authority of the Oklahoma Court of Civil Appeals -  
9 requiring establishment of a Court Calendar and  
10 specifying items to be included on the Court  
11 Calendar - effective date ]  
12  
13

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

15 SECTION 4. AMENDATORY 20 O.S. 2011, Section 30.1, is  
16 amended to read as follows:

17 Section 30.1 A. There is hereby established an intermediate  
18 appellate court to be known as the Oklahoma Court of Civil Appeals  
19 ~~of the State of Oklahoma~~ which shall have the power to determine or  
20 otherwise dispose of any civil cases that are assigned to it by the  
21 Supreme Court. Its decisions, when final, shall ~~neither~~ not be  
22 appealable to the Supreme Court ~~nor be subject to reexamination by~~  
23 ~~another division of the Court of Civil Appeals or by the Judges of~~  
24

1 ~~that Court sitting en banc~~ except upon certiorari as provided in  
2 subsection B of this section.

3 B. The Oklahoma Court of Civil Appeals shall have jurisdiction  
4 to issue writs of habeas corpus, mandamus, quo warranto, certiorari,  
5 prohibition, or any other process when this may be necessary in any  
6 case assigned to it by properly before the Supreme Court. A  
7 decision of the Oklahoma Court of Civil Appeals may be reviewed by  
8 the Supreme Court if a majority of its Justices direct that a writ  
9 of certiorari be granted, and the. The Supreme Court may, by order,  
10 shall not recall a case from assigned to the Oklahoma Court of Civil  
11 Appeals.

12 C. Beginning January 1, 2021, and continuing thereafter, the  
13 Supreme Court shall assign every appeal of a district court  
14 decision, except for criminal cases appealed to the Court of  
15 Criminal Appeals as provided by law, to the Oklahoma Court of Civil  
16 Appeals. The Supreme Court shall not retain any appeal of a  
17 district court decision, and shall not have discretion in making  
18 assignments of appeals to the Oklahoma Court of Civil Appeals.  
19 Nothing contained in this section shall be construed to alter the  
20 original jurisdiction of the Supreme Court.

21 D. Upon assignment of an appeal to the Oklahoma Court of Civil  
22 Appeals, the case shall be heard by a three-Judge panel of the  
23 Oklahoma Court of Civil Appeals as provided by law.

24

1 SECTION 5. AMENDATORY 20 O.S. 2011, Section 30.2, is  
2 amended to read as follows:

3 Section 30.2 A. The Oklahoma Court of Civil Appeals shall  
4 ~~upon the members being elected and qualified,~~ consist of four two  
5 permanent divisions. Two divisions which shall be known as the  
6 Oklahoma Court of Civil Appeals, Eastern Division and the Oklahoma  
7 Court of Civil Appeals, Western Division. The location and  
8 jurisdiction of each division shall be as follows:

9 1. The Eastern Division shall sit in Tulsa County and two  
10 divisions shall be assigned appeals of decisions of the district  
11 courts of the following counties: Adair, Atoka, Bryan, Carter,  
12 Cherokee, Choctaw, Coal, Craig, Creek, Delaware, Haskell, Hughes,  
13 Johnston, Latimer, LeFlore, Love, Marshall, Mayes, McCurtain,  
14 McIntosh, Murray, Muskogee, Nowata, Okfuskee, Okmulgee, Osage,  
15 Ottawa, Pawnee, Pittsburg, Pontotoc, Pushmataha, Rogers, Seminole,  
16 Sequoyah, Tulsa, Wagoner, and Washington; and

17 2. The Western Division shall sit in Oklahoma County and shall  
18 be assigned appeals of decisions of the district courts of the  
19 following counties: Alfalfa, Beaver, Beckham, Blaine, Caddo,  
20 Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey,  
21 Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper,  
22 Jackson, Jefferson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major,  
23 McClain, Noble, Oklahoma, Payne, Pottawatomie, Roger Mills,  
24 Stephens, Texas, Tillman, Washita, Woods, and Woodward.



1        B. Each division shall consist of ~~three~~ nine Judges, ~~at~~ and

2 shall hear appeals in randomly assigned and rotating three-Judge

3 panels. At least two ~~of whom~~ Judges sitting on a panel shall concur

4 in any decision, and ~~each~~ the division may sit en banc to review the

5 decision of any panel. Petitions for en banc review shall be

6 granted upon the concurrence of a majority of the Judges of the

7 division then in office. The filing of a petition for en banc

8 review shall toll the time period for requesting certiorari from the

9 Supreme Court.

10        C. All Judges of the Court of Civil Appeals serving on January

11 1, 2021, shall serve the remainder of their terms. Beginning

12 January 1, 2021, the Oklahoma Court of Civil Appeals shall be

13 constituted as follows:

14        1. The Judges of Divisions 1 and 2 shall become Judges of the

15 Western Division;

16        2. The Judges of Divisions 3 and 4 shall become Judges of the

17 Eastern Division; and

18        3. Additional Judges shall be appointed as necessary to fill

19 the remaining seats in each division.

20        D. Each division shall ~~select~~ elect a ~~presiding~~ Presiding Judge

21 who shall be responsible for administrative matters of the division

22 with the advice of the Judges of the division and shall act in that

23 capacity without additional compensation. ~~The assignment of Judges~~

24

1 ~~to the divisions shall be effected by the Supreme Court. Judges may~~  
2 ~~be transferred from one division to another.~~

3 SECTION 6. AMENDATORY 20 O.S. 2011, Section 30.4, is  
4 amended to read as follows:

5 Section 30.4 A. ~~The Supreme Oklahoma Court of Civil Appeals~~  
6 ~~shall, by rule, prescribe the promulgate rules of procedure and~~  
7 ~~practice in the Court of Civil Appeals, the procedure in bringing~~  
8 ~~writs of certiorari to the Court of Civil Appeals, and the scope of~~  
9 ~~review to be afforded on certiorari to that Court. Subject to law~~  
10 ~~and the rules of the Supreme Court, the to the extent permitted by~~  
11 law.

12 B. The Oklahoma Court of Civil Appeals may promulgate its own  
13 rules shall afford each party to a case the opportunity to timely  
14 submit a written merits brief and to present oral argument to the  
15 Court, unless one or both are waived by all parties to the appeal.

16 C. The Oklahoma Court of Civil Appeals shall establish a Court  
17 Calendar that includes any information that would assist litigants  
18 or increase transparency to the public, as determined by the Court  
19 in its rules. At a minimum, the Court Calendar shall include dates  
20 and times of oral argument and dates of conferences of the Court.  
21 The Court Calendar shall note the cases scheduled for oral argument  
22 and the matters to be discussed in conference. The Court Calendar  
23 shall be prominently featured on the Court's website and shall be  
24 publicly accessible without charge.

1        ~~B.~~ D. There shall be deposited with the Clerk of the Supreme  
2 Court as costs for the filing of a petition for certiorari to the  
3 Supreme Court One Hundred Dollars (\$100.00) of which no rebate or  
4 refund of any part thereof may be made; provided, the Supreme Court,  
5 by rule, may prescribe the procedure for affording access to the  
6 Supreme Court, on certiorari and without deposit of costs, to those  
7 indigent persons who are deemed by it entitled thereto.

8        SECTION 7.        AMENDATORY        20 O.S. 2011, Section 30.5, is  
9 amended to read as follows:

10        Section 30.5 The Oklahoma Court of Civil Appeals shall effect  
11 disposition of cases ~~assigned to~~ before it by a written opinion  
12 prepared in such form as the Supreme Court prescribes. ~~No opinion~~  
13 ~~of the~~ The Oklahoma Court of Civil Appeals shall ~~be binding or cited~~  
14 ~~as precedent unless it shall have been approved by the majority of~~  
15 ~~the justices of the Supreme Court for publication in the official~~  
16 ~~reporter. The Supreme Court shall direct which opinion or decision,~~  
17 ~~if any, of the Court of Civil Appeals shall be published in the~~  
18 ~~unofficial reporter. Opinions of the Court of Civil Appeals which~~  
19 ~~apply settled precedent and do not settle new questions of law shall~~  
20 ~~not be released for publication in the official reporter~~ establish  
21 rules and procedures governing the publishing of opinions in  
22 official and unofficial reporters, consistent with the procedures of  
23 the Supreme Court for its publication determinations.

24

1 SECTION 8. AMENDATORY 20 O.S. 2011, Section 30.7, is  
2 amended to read as follows:

3 Section 30.7 ~~The Oklahoma County divisions of the Court of~~  
4 ~~Appeals shall be quartered in Oklahoma City.~~ Suitable quarters and  
5 maintenance for the ~~Tulsa division~~ divisions of the Oklahoma Court  
6 of Civil Appeals shall be provided for by the State of Oklahoma,  
7 under the supervision of the Administrative Director of the Courts.  
8 Proceedings of the Oklahoma Court of Civil Appeals shall be open to  
9 the public unless sealed by law.

10 SECTION 9. AMENDATORY 20 O.S. 2011, Section 30.15, is  
11 amended to read as follows:

12 Section 30.15 ~~Two Judges shall be appointed or elected to the~~  
13 ~~Court of Civil Appeals from each of the six congressional districts~~  
14 ~~of the State of Oklahoma.~~

15 A. Each Judge of the Oklahoma Court of Civil Appeals shall  
16 have, prior to election or appointment, a minimum of four (4) years'  
17 experience as a licensed practicing attorney, or as a judge of a  
18 court of record, or both, within the State of Oklahoma; shall be a  
19 qualified elector of the ~~respective district~~ State of Oklahoma; and  
20 shall have such additional qualifications as may be prescribed by  
21 statute. Judges of the Oklahoma Court of Civil Appeals ~~shall~~ may  
22 continue to be licensed attorneys while in office.

23 B. The terms of office of the Judges of the Oklahoma Court of  
24 Civil Appeals shall be six (6) years and shall begin on the second

1 Monday of January following their election. Those appointed ~~or~~  
2 ~~elected~~ to fill vacancies shall assume office immediately upon  
3 qualifying for the office.

4 C. Beginning January 1, 2021, no Judge of the Oklahoma Court of  
5 Civil Appeals shall serve more than three (3) terms. Any Judge  
6 -serving on the Oklahoma Court of Civil Appeals on January 1, 2021,  
7 shall be eligible to finish the remainder of his or her term and no  
8 more than two terms thereafter. This subsection shall not be  
9 construed to limit judicial service on other courts after a Judge  
10 has completed service on the Oklahoma Court of Civil Appeals.

11 SECTION 10. AMENDATORY 20 O.S. 2011, Section 30.16, is  
12 amended to read as follows:

13 Section 30.16 At the General Election next before a term  
14 expires, any Judge of the Oklahoma Court of Civil Appeals may seek  
15 retention in office by filing with the Secretary of State, not less  
16 than sixty (60) days before the date of the election, a declaration  
17 of candidacy to succeed himself or herself. At the election, there  
18 shall be submitted to the qualified electors of the state, on a  
19 separate ballot, without party designation, this question:

20 "Shall (Here insert name of Judge) of the Oklahoma Court of  
21 Civil Appeals be retained in Office?"

22  YES

23  NO

24

1 The question shall be decided by a majority of those voting thereon.  
2 If the decision is "yes" the Judge shall be retained in office for  
3 the next ensuing six-year term. If the decision is "no", or if no  
4 declaration of candidacy is filed, the office shall be vacant upon  
5 expiration of the term then being served, and the former Judge shall  
6 not be eligible for appointment to succeed himself or herself.  
7 Retention in office may be sought for successive terms ~~without limit~~  
8 ~~as to number, except for retirement as may be provided by the~~  
9 ~~Legislature for a maximum retirement age, subject to the term~~  
10 limitations contained in Section 30.15 of this title.

11 SECTION 11. REPEALER 20 O.S. 2011, Sections 30.11,  
12 30.14, 30.18 and 30.19, are hereby repealed.

13 SECTION 12. This act shall become effective January 1, 2021.

14 Passed the House of Representatives the 9th day of March, 2020.

15

16

17

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

18

19

Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2020.

20

21

\_\_\_\_\_  
Presiding Officer of the Senate

22

23

24