

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 472

By: Daniels of the Senate

6 and

7 Kannady of the House

8
9 **[Workers' Compensation Court of Existing Claims -**
10 **establishing procedures for certain judicial**
11 **appointment -**
12 **emergency]**

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15 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

16 SECTION 1. AMENDATORY Section 165, Chapter 208, O.S.L.
17 2013, as last amended by Section 64, Chapter 476, O.S.L. 2019 (85A
18 O.S. Supp. 2020, Section 122), is amended to read as follows:

19 Section 122. A. The Workers' Compensation Commission Revolving
20 Fund established by Section 28.1 of this title shall be used for the
21 costs of administering this act and for other purposes as authorized
22 by law.

23 B. For the purpose of providing funds for the Workers'
24 Compensation Commission Revolving Fund, for the Workers'

1 Compensation Administrative Fund created in Section 401.1 of this
2 title, for the Multiple Injury Trust Fund created in Section 28 of
3 this title, and to fund other provisions within this title, the
4 following tax rates shall apply:

5 1. Each mutual or interinsurance association, stock company,
6 CompSource Mutual Insurance Company or other insurance carrier
7 writing workers' compensation insurance in this state shall pay to
8 the Oklahoma Tax Commission an assessment at a rate of one percent
9 (1%) of all gross direct premiums written during each quarter of the
10 calendar year for workers' compensation insurance on risks located
11 in this state after deducting from such gross direct premiums,
12 return premiums, unabsorbed portions of any deposit premiums, policy
13 dividends, safety refunds, savings and other similar returns paid or
14 credited to policyholders. Such payments to the Tax Commission
15 shall be made not later than the fifteenth day of the month
16 following the close of each quarter of the calendar year in which
17 such gross direct premium is collected or collectible.

18 Contributions made by insurance carriers and CompSource Mutual
19 Insurance Company, under the provisions of this section, shall be
20 considered for the purpose of computing workers' compensation rates;
21 and

22 2. When an employer is authorized to become a self-insurer, the
23 Commission shall so notify the Tax Commission, giving the effective
24 date of such authorization. The Tax Commission shall then assess

1 and collect from the employers carrying their own risk an assessment
2 at the rate of two percent (2%) of the total compensation for
3 permanent total disability awards, permanent partial disability
4 awards and death benefits paid out during each quarter of the
5 calendar year by the employers. Such assessment shall be payable by
6 the employers and collected by the Tax Commission according to the
7 provisions of this section regarding payment and collection of the
8 assessment created in paragraph 1 of this subsection.

9 C. It shall be the duty of the Tax Commission to collect the
10 payments provided for in this title. The Tax Commission is hereby
11 authorized to bring an action for the recovery of any delinquent or
12 unpaid payments required in this section. The Tax Commission may
13 also enforce payments by proceeding in accordance with the
14 provisions of Section 98 of this title.

15 D. The Tax Commission shall pay monthly to the State Treasurer
16 to the credit of the Multiple Injury Trust Fund all monies collected
17 under the provisions of this section less the annual amounts which
18 shall be apportioned by the Oklahoma Tax Commission as follows:

19 1. Five Million Dollars (\$5,000,000.00) shall be payable in
20 equal monthly installments to the credit of the Workers'
21 Compensation Commission Revolving Fund established in Section 28.1
22 of this title for the fiscal year ending June 30, 2016, Three
23 Million Dollars (\$3,000,000.00) for the fiscal year ending June 30,
24 2017, and Four Million Dollars (\$4,000,000.00) for the fiscal year

1 ending June 30, 2020, and for all subsequent years to be used to
2 implement the provisions of this title; and

3 2. Four Million Dollars (\$4,000,000.00) shall be payable in
4 equal monthly installments to the credit of the Workers'
5 Compensation Administrative Fund established in Section 401.1 of
6 this title for the fiscal year ending June 30, 2016, Three Million
7 Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal year
8 ending June 30, 2017, Three Million Five Hundred Thousand Dollars
9 (\$3,500,000.00) for the fiscal year ending June 30, 2018, Three
10 Million Dollars (\$3,000,000.00) for the fiscal year ending June 30,
11 2019, ~~and~~ One Million Seven Hundred Fifty Thousand Dollars
12 (\$1,750,000.00) for the fiscal year ending June 30, 2020, One
13 Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) for the
14 fiscal year ending June 30, 2022, and for all subsequent years
15 during the existence of the Court of Existing Claims.

16 Monies deposited in the Workers' Compensation Administrative
17 Fund shall be used by the Workers' Compensation Court of Existing
18 Claims to implement provisions provided for in this title.

19 E. The refund provisions of Sections 227 through 229 of Title
20 68 of the Oklahoma Statutes shall be applicable to any payments made
21 pursuant to this section.

22 SECTION 2. AMENDATORY Section 169, Chapter 208, O.S.L.
23 2013, as amended by Section 56, Chapter 476, O.S.L. 2019 (85A O.S.
24 Supp. 2020, Section 400), is amended to read as follows:

1 Section 400. A. The Workers' Compensation Court shall be
2 renamed the Workers' Compensation Court of Existing Claims for the
3 purpose of hearing disputes relating to claims that arise before
4 February 1, 2014. The Court shall consist of the existing judges
5 for the remainder of his or her term. Each judge of the Court shall
6 continue to serve as the appointment to a designated position on the
7 Court. The terms of the judges by position number shall expire on
8 the following dates:

9 Position 4 shall expire 7-1-20.

10 Position 5 shall expire 7-1-20.

11 Position 8 shall expire 7-1-20.

12 Position 9 shall expire 7-1-20.

13 B. 1. Effective July 1, 2020, the Workers' Compensation Court
14 of Existing Claims shall consist of one judge to be appointed by the
15 Governor, with confirmation by the Senate. The judge shall be
16 appointed for a term to expire on July 1, 2022. The Governor shall
17 select the judge from a list of three applicants submitted to the
18 Governor by the Judicial Nominating Commission. If the list is not
19 acceptable to the Governor, the Governor may request from the
20 Judicial Nominating Commission a list of names of three additional
21 applicants. Any present judge of the Court of Existing Claims may
22 apply to the Judicial Nominating Commission for appointment to fill
23 any position authorized by this section.

24

1 2. Effective July 1, 2022, the Workers' Compensation Court of
2 Existing Claims shall consist of one judge to be appointed by the
3 Governor, with confirmation by the Senate. The judge shall be
4 appointed for a term to expire on July 1, 2026.

5 C. A judge may be removed for cause by the Court on the
6 Judiciary prior to the expiration of his or her term.

7 D. Each judge shall receive a salary equal to that paid to a
8 district judge of this state, and shall devote full time to his or
9 her duties and shall not engage in the private practice of law
10 during the term in office.

11 E. If a vacancy occurs on the Court of Existing Claims, the
12 Governor shall appoint a judge to serve the remainder of the term
13 from a list of three applicants submitted to the Governor by the
14 Judicial Nominating Commission, with confirmation of the State
15 Senate. If the list is not acceptable to the Governor, the Governor
16 may request from the Judicial Nominating Commission a list of the
17 names of three additional applicants.

18 F. 1. Effective January 1, 2020, the Governor shall appoint an
19 Administrator of the Court of Existing Claims, who shall serve at
20 the pleasure of the Governor. The Administrator shall be appointed
21 by the Governor with the advice and consent of the Senate. The
22 compensation for the Administrator shall be set at ninety percent
23 (90%) of the compensation of a district court judge.

1 2. The Administrator shall employ and supervise the work of
2 employees of the Court and shall have the authority to expend funds
3 and contract on behalf of the Court. The Administrator may contract
4 with the Workers' Compensation Commission to provide support
5 services or personnel needs necessary to carry out the purposes of
6 the Court and shall supervise the work of any such personnel as
7 necessary to maintain the Court as a Court of Record.

8 ~~3. Until January 1, 2020, the individual serving as~~
9 ~~Administrator on the effective date of this act shall continue to~~
10 ~~serve in that capacity.~~

11 G. The Court of Existing Claims shall contract with the
12 Workers' Compensation Commission to integrate its case management
13 and records Information Technology System into the system of the
14 Workers' Compensation Commission with such integration to be
15 completed on or before July 1, 2022. The Court shall be entitled to
16 any fees generated for the retrieval of such data.

17 H. The Court shall operate by the rules adopted by the Workers'
18 Compensation Court prior to ~~the effective date of this act~~ February
19 1, 2014.

20 I. The Court is hereby designated and confirmed as a court of
21 record, with respect to any matter within the limits of its
22 jurisdiction, and within such limits the judges thereof shall
23 possess the powers and prerogatives of the judges of the other
24 courts of record of this state, including the power to punish for

1 contempt those persons who disobey a subpoena, or refuse to be sworn
2 or to answer as a witness, when lawfully ordered to do so.

3 J. The principal office of the Court shall be situated in the
4 City of Oklahoma City in quarters assigned by the Office of
5 Management and Enterprise Services. The Court may hold hearings in
6 any city of this state.

7 K. All county commissioners and presiding district judges of
8 this state shall make quarters available for the conducting of
9 hearings by a judge of the Court upon request by the Court.

10 L. Judges of the Workers' Compensation Court of Existing Claims
11 may punish for direct contempt pursuant to Sections 565, 565.1 and
12 566 of Title 21 of the Oklahoma Statutes.

13 M. The Court shall be vested with jurisdiction over all claims
14 filed pursuant to the Workers' Compensation Code or previous statute
15 in effect on the date of an injury that occurred before February 1,
16 2014. All claims so filed shall be heard by the judge sitting
17 without a jury. The Court shall have full power and authority to
18 determine all questions in relation to payment of claims for
19 compensation under the provisions of the Workers' Compensation Code
20 or previous statute in effect on the date of an injury that occurred
21 before February 1, 2014. The Court, upon application of either
22 party, shall order a hearing. Upon a hearing, either party may
23 present evidence and be represented by counsel. The decision of the
24 Court shall be final as to all questions of fact and law; provided,

1 the decision of the Court may be appealed to the Court en banc or
2 the Supreme Court as provided by the Workers' Compensation Code or
3 previous statute in effect on the date of an injury that occurred
4 before February 1, 2014. In the event that an insufficient number
5 of active judges are available to comprise the three-judge en banc
6 panel, retired or former judges of the district court, Workers'
7 Compensation Court or Workers' Compensation Court of Existing Claims
8 may be designated by the Presiding Judge of the Court of Existing
9 Claims as eligible to serve on such panel. The Governor shall
10 provide to the Court of Existing Claims a list of designated judges
11 eligible for service on the Court en banc. The decision of the
12 Court shall be issued within thirty (30) days following the
13 submission of the case by the parties. The power and jurisdiction
14 of the Court over each case shall be continuing and it may, from
15 time to time, make such modifications or changes with respect to
16 former findings or orders relating thereto if, in its opinion, it
17 may be justified.

18 N. For an injury occurring before February 1, 2014, all
19 benefits and procedures to obtain benefits shall be determined by
20 the workers' compensation law of this state in effect on the date of
21 the injury.

22 O. All accrued rights and penalties incurred pursuant to a
23 final order of the Workers' Compensation Court shall be preserved.
24 No accrued right, penalty incurred, or proceeding begun by virtue of

1 a statute repealed by this act shall be abrogated by the terms of
2 this act.

3 P. Annually, on or before the first day of July, commencing
4 with July 2019, the Administrator shall prepare and submit a report
5 for the prior calendar year to the Governor, the Chief Justice of
6 the Supreme Court, the President Pro Tempore of the Senate, and the
7 Speaker of the House of Representatives which shall include a
8 statement of the number of awards made and the causes of the
9 accidents leading to the injuries for which the awards were made,
10 total work load data of the Court, a detailed report of the work
11 load of the judges of the Court, a detailed statement of the
12 expenses of the office of the Administrator of Workers' Compensation
13 Court of Existing Claims, together with any other matter which the
14 Administrator deems proper to report to the Governor, including any
15 recommendations he or she may desire to make.

16 Q. Subject to the availability of funds, the Judge of the Court
17 of Existing Claims may employ one at-will full- or part-time special
18 workers' compensation judge with jurisdiction to hear cases as set
19 forth in subsection M of this section and as may be assigned by the
20 Judge. The special workers' compensation judge shall receive
21 compensation for such services in accordance with the provisions of
22 Section 92.1A of Title 20 of the Oklahoma Statutes.

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
5 04/01/2021 - DO PASS, As Amended.

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