

AN ACT relating to the Workers' Compensation Nominating Commission.

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

➔Section 1. 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) **One (1) member from the Kentucky Coal Association;**
 - (b) **One (1) member from the Kentucky Chamber of Commerce;**
 - (c) **One (1) member from the Kentucky Association of Manufacturers;**
 - (d) **One (1) member from the Kentucky Chapter of National Federation of Independent Businesses;**
 - (e) **One (1) member from the Kentucky Justice Association;**
 - (f) **One (1) member from the Kentucky Employee Safety Association;**
 - (g) **One (1) at-large member chosen from the general public;**

~~{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.-(h)~~ 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;

~~(i)-(e)~~ Appointments to fill the unexpired term of a member shall be for the remainder of the term; and

~~(j)-(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.]~~

➔Section 2. Persons serving on the nominating commission on the effective date of this Act shall continue to serve until their terms expire or until they cease to serve for some other reason. Appointments made to the nominating commission after the effective date of this Act shall be made in accordance with KRS 342.213 as amended in Section 1 of this Act.