

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1814

By: Dank

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6 AS INTRODUCED

7 An Act relating to workers' compensation; amending 85
8 O.S. 2001, Section 1.2, which relates to the Workers'
9 Compensation Court; creating the Workers'
10 Compensation Appellate Court; amending 85 O.S. 2001,
11 Section 3.6, which relates to appellate procedure;
12 creating independent three-judge panel; amending 85
13 O.S. 2001, Section 69.5, which relates to the
14 presiding officer; removing presiding over appeals
15 from duties; and providing an effective date.

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

17 SECTION 1. AMENDATORY 85 O.S. 2001, Section 1.2, is
18 amended to read as follows:

19 Section 1.2 A. There is hereby created the Workers'
20 Compensation Court which shall consist of ten (10) judges. Each
21 judge of the Court shall be appointed to a designated numbered
22 position on the Court. The positions shall be numbered one through
23 ten. The initial terms of the judges by position number shall
24 expire on the following dates:

Position 1 shall expire 7-1-84.

Position 2 shall expire 7-1-84.

1 Position 3 shall expire 7-1-84.

2 Position 4 shall expire 7-1-82.

3 Position 5 shall expire 7-1-82.

4 Position 6 shall expire 7-1-80.

5 Position 7 shall expire 7-1-80.

6 Position 8 shall expire 7-1-88.

7 Position 9 shall expire 7-1-88.

8 Position 10 shall expire 7-1-96 after being appointed under the
9 provisions hereinafter set forth effective September 1, 1993.

10 Thereafter, each position shall be filled by a judge appointed
11 to serve a six-year term. As of November 1, 2007, Positions 1
12 through 7 shall constitute the Workers' Compensation Trial Court and
13 Positions 8 through 10 shall constitute the Workers' Compensation
14 Appellate Court.

15 Provided the judges serving unexpired terms on the State
16 Industrial Court shall serve on the Workers' Compensation Trial
17 Court and the Workers' Compensation Appellate Court until their
18 terms expire only as provided herein. The judges of the State
19 Industrial Court whose terms expire March 14, 1979, shall serve in
20 Positions 6 and 7 until that date, and the judge whose term expires
21 March 14, 1981, shall serve in Position 5 until that date. Upon
22 expiration of these terms, the Governor shall appoint judges to
23 serve the remainder of the initial terms designated in this section.
24 When a vacancy on the Court occurs or is certain to occur or for

1 initial appointments to the Court, the Judicial Nominating
2 Commission shall choose and submit to the Governor and the Chief
3 Justice of the Supreme Court the names of three persons, in addition
4 to the name of the incumbent judge, if any, for each appointment,
5 each of whom has previously notified the Commission in writing that
6 he or she will serve as a judge if appointed. The Governor shall
7 appoint one of the nominees to fill the vacancy, but if the Governor
8 fails to do so within sixty (60) days, the Chief Justice of the
9 Supreme Court shall appoint one of the nominees, the appointment to
10 be certified to the Secretary of State.

11 B. A judge of the Court shall have been licensed to practice
12 law in this state for a period of not less than five (5) years prior
13 to appointment. Each judge, before entering upon the duties of
14 office, shall take and subscribe to an oath of office and file the
15 same with the Secretary of State. Each judge shall continue to
16 serve until his or her successor has been appointed and qualified.
17 A judge shall be eligible for reappointment, provided that the judge
18 may be removed for cause by the Court on the Judiciary prior to the
19 expiration of his or her term.

20 C. Each judge shall receive a salary equal to that paid to a
21 district judge of this state, and shall devote full time to his or
22 her duties and shall not engage in the private practice of law
23 during the term in office.

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1 D. The Governor shall appoint from among the judges of the
2 Workers' Compensation Court a presiding judge of that Court who
3 shall serve for a two-year term commencing with the initial
4 appointment beginning January 1, 1987. Any judge so appointed shall
5 not serve more than two times in succession. The presiding judge
6 shall preside at all hearings held by the Court, preside at such
7 meetings of the judges of the Court as may be necessary and perform
8 such other supervisory duties as the needs of the Court may require.
9 The presiding judge may designate one of the other judges to act as
10 presiding judge in his or her place whenever necessary during the
11 disqualification, disability, or absence of the presiding judge.
12 During the disqualification, disability, or absence of the presiding
13 judge, the acting presiding judge shall exercise all of the powers
14 of the presiding judge.

15 E. The Court shall have the authority to adopt reasonable rules
16 within its respective areas of responsibility including the rules of
17 procedure for the Court en banc, after notice and public hearing,
18 for effecting the purposes of the Workers' Compensation Act. All of
19 the judges of the Court shall be present at all meetings wherein
20 rules are adopted or amended. All rules, upon adoption, shall be
21 submitted to the Supreme Court, which shall either approve or
22 disapprove them within thirty (30) days. All rules, upon approval
23 by the Supreme Court, shall be published and be made available to
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1 the public and, if not inconsistent with the law, shall be binding
2 in the administration of the Workers' Compensation Act.

3 F. The Court is hereby designated and confirmed as a court of
4 record, with respect to any matter within the limits of its
5 jurisdiction, and within such limits the judges thereof shall
6 possess the powers and prerogatives of the judges of the other
7 courts of record of this state, including the power to punish for
8 contempt those persons who disobey a subpoena, or refuse to be sworn
9 or to answer as a witness, when lawfully ordered to do so.

10 G. The principal office of the Court shall be situated in the
11 City of Oklahoma City in quarters assigned by the Department of
12 Central Services. The Court may hold hearings in any city of this
13 state.

14 H. All county commissioners and presiding district judges of
15 this state shall make quarters available for the conducting of
16 hearings by a judge of the Court upon request by the Court.

17 I. The judges of the Court shall determine the qualifications
18 necessary for the job of Administrator. Said qualifications shall
19 be submitted to the Chief Justice of the Supreme Court for approval,
20 disapproval or modification.

21 J. Judges of the Workers' Compensation Court may punish for
22 direct contempt pursuant to Sections 565, 565.1 and 566 of Title 21
23 of the Oklahoma Statutes.

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1 SECTION 2. AMENDATORY 85 O.S. 2001, Section 3.6, is
2 amended to read as follows:

3 Section 3.6 A. All the evidence pertaining to each case,
4 except upon agreed orders, shall, insofar as may be possible, be
5 heard by the judge initially assigned to the case. Upon the
6 completion of such hearing or hearings, the judge hearing the cause
7 shall make such order, decision or award as is proper, just and
8 equitable in the matter. Either party feeling himself aggrieved by
9 such order, decision or award shall, within ten (10) days, have the
10 right to take an appeal from the order, decision or award of the
11 Judge to the Workers' Compensation Appellate Court ~~sitting en banc~~.
12 Such appeal shall be allowed as a matter of right to either party
13 upon filing with the Administrator a notice of such appeal. Such
14 Court ~~en banc~~ shall consist of three (3) Judges ~~of the Court, none~~
15 ~~of whom shall have presided over any of the previous hearings on the~~
16 ~~claim~~ appointed for the sole purpose of hearing workers'
17 compensation appeals. The Court ~~en banc~~ may reverse or modify the
18 decision only if it determines that such decision was against the
19 clear weight of the evidence or contrary to law. Upon completion of
20 the appeal, the members of the Court ~~sitting en banc~~ shall issue
21 such order, decision or award as is proper, just and equitable.
22 Only ~~those members participating in the hearing on appeal~~ the
23 Workers' Compensation Appellate judges shall participate in the
24 making of the order, decision or award. All orders, decisions or

1 awards shall be approved by a majority of the members of the Court
2 ~~sitting en banc. Provided, there may be more than one Court en banc~~
3 ~~sitting at the same time for purposes of hearing the appeals~~
4 ~~provided for herein.~~ Appeals shall be allowed on a question of law
5 or a question of fact, or a mixed question of law and fact, and
6 shall be determined on the record made before the Judge. Provided,
7 when the order of the Judge of the Court making an award to a
8 claimant is appealed by the employer or the insurance carrier,
9 interest shall be allowed on the accrued amounts of the award due
10 from the date the award was filed, if the award is not modified or
11 vacated on appeal.

12 B. In each case filed in the Court ~~en banc~~, and at the time of
13 filing same, the appellant shall deposit with the clerk as costs One
14 Hundred Twenty-five Dollars (\$125.00) of which no rebate of any part
15 thereof shall be made. The fee collected under this subsection
16 shall be deposited as follows: One Hundred Dollars (\$100.00) to the
17 credit of the Administrator of Workers' Compensation Revolving Fund
18 created by Section 95 of this title for the costs of administering
19 the Workers' Compensation Act; and Twenty-five Dollars (\$25.00) to
20 the credit of the Administrator of Workers' Compensation Revolving
21 Fund for purposes of implementing the provisions of this act,
22 including strengthening and providing additional funding for the
23 Attorney General's Workers' Compensation Fraud Unit, providing

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1 counseling services pursuant to the workers' compensation counselor
2 program and safety in the workplace.

3 C. The order, decision or award of the Court shall be final and
4 conclusive upon all questions within its jurisdiction between the
5 parties, unless, within twenty (20) days after a copy of such order,
6 decision or award has been sent by the Administrator to the parties
7 affected, an action is commenced in the Supreme Court of the state,
8 to review such order, decision or award. Any order, decision or
9 award made by a judge of the Court shall be considered as final
10 under the provisions of this section unless appealed to the Workers'
11 Compensation Appellate Court ~~sitting en banc~~ as provided for in
12 subsection A of this section. The order, decision or award of a
13 judge of the Court shall be final and conclusive upon all questions
14 within his jurisdiction between the parties unless appealed directly
15 to the Supreme Court or to the Workers' Compensation Appellate Court
16 ~~sitting en banc~~ as hereinbefore provided. Any party litigant
17 desiring to appeal directly from such order, decision or award to
18 the Supreme Court, shall, within twenty (20) days after a copy of
19 the order, decision or award has been sent by the Administrator to
20 the parties affected, commence an action in the Supreme Court of the
21 state to review such order, decision or award. The Supreme Court
22 shall have original jurisdiction of such action, and shall prescribe
23 rules for the commencement and trial of the same. Such action shall
24 be commenced by filing with the Clerk of the Supreme Court a

1 certified copy of the order, decision or award of the Workers'
2 Compensation Appellate Court ~~sitting en banc~~ or the judge attached
3 to the petition by the complaint wherein the complainant or
4 petitioner shall make his assignments or specifications as to
5 wherein said order, decision or award is erroneous or illegal.
6 Provided, however, no proceeding to reverse, vacate or modify any
7 order, decision or award of the Workers' Compensation Appellate
8 Court ~~sitting en banc~~ or judge of the Court wherein compensation has
9 been awarded an injured employee shall be entertained by the Supreme
10 Court unless the Administrator shall take a written undertaking to
11 the claimant executed on the part of the respondent or insurance
12 carrier, or both, with one or more sureties to be approved by the
13 Administrator, to the effect that the appellant will pay the amount
14 of the award rendered therein, together with interest thereon from
15 the date of the award by the judge of the Court and all costs of the
16 proceeding, or on the further order of the Workers' Compensation
17 Appellate Court ~~sitting en banc~~ or judge of the Court after the
18 appeal has been decided by the Supreme Court, except that
19 municipalities and other political subdivisions of the State of
20 Oklahoma are exempt from making such written undertakings. Before
21 the Clerk of the Supreme Court shall accept the action for filing, a
22 certificate from the Administrator shall be required, showing that
23 this provision has been complied with. Said proceedings shall be
24 heard in a summary manner and shall have precedence over all other

1 civil cases in the Supreme Court, except preferred Corporation
2 Commission appeals. The Supreme Court shall require the appealing
3 party to file within forty-five (45) days from the date of the
4 filing of an appeal or an order appealed from, a transcript of the
5 record of the proceedings before the Workers' Compensation Court, or
6 upon application and for good cause shown, the Supreme Court may
7 extend the time for filing said transcript of the record for a
8 period of time not to exceed ninety (90) days from said date, and
9 such action shall be subject to the law and practice applicable to
10 other civil actions cognizable in said Supreme Court. The Court
11 whose action was appealed shall enter any order directed by the
12 Supreme Court under the final determination.

13 D. When the only controverted issue in a death claim is the
14 determination of proper beneficiaries entitled to receive death
15 benefits, and the parties-beneficiary appeal the decision of the
16 Court, the employer or insurance carrier may pay the proceeds, as
17 they accrue, to the Administrator. The Administrator shall hold the
18 proceeds in trust in an interest-bearing account during the appeal
19 period and shall distribute the proceeds and interest to the proper
20 beneficiaries upon written direction of the Court. The employer or
21 insurance carrier shall not be taxed interest or cost on the order
22 of the death claim if payments have been made to the Administrator
23 as they accrue.

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1 E. An action to reopen any case under the provisions of the
2 Workers' Compensation Act shall be assigned in the same manner as
3 original assignments made hereunder.

4 F. Benefits for an injury shall be determined by the law in
5 effect at the time of injury; benefits for death shall be determined
6 by the law in effect at the time of death.

7 G. For purposes of this section, interest shall be computed
8 pursuant to Section 727 of Title 12 of the Oklahoma Statutes.

9 SECTION 3. AMENDATORY 85 O.S. 2001, Section 69.5, is
10 amended to read as follows:

11 Section 69.5 The Presiding Judge shall preside at all hearings
12 before the Court en banc and at all conferences at which ~~appeals and~~
13 other matters are considered; make all procedural rulings for the
14 court except those to be made in the course of hearings before a
15 single judge; assign or direct the assignment of cases to the
16 several judges for hearing at places he shall designate; direct and
17 supervise the work of all employees of the Court; handle, oversee
18 and be responsible for all administrative affairs of the Court,
19 including but not limited to those of personnel, budgetary and
20 financial management; and bear such other responsibilities and
21 duties as may be necessary to operate the Court in an efficient
22 manner. For the period during which he is disqualified, disabled or
23 absent, the Presiding Judge may designate another judge to act as
24 Presiding Judge in his stead.

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SECTION 4. This act shall become effective November 1, 2007.

51-1-5639 AB 01/17/07