

## HOUSE BILL No. 2464

By Committee on Commerce and Labor

2-11

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9 AN ACT concerning workers compensation administrative law judges;  
10 amending K.S.A. 2004 Supp. 75-5708 and repealing the existing  
11 section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2004 Supp. 75-5708 is hereby amended to read as  
15 follows: 75-5708. (a) There is hereby established within and as a part of  
16 the department of labor a division of workers compensation. The division  
17 shall be administered, under the supervision of the secretary of labor, by  
18 the director of workers compensation, who shall be the chief administra-  
19 tive officer of the division. The director of workers compensation shall  
20 be appointed by the secretary of labor and shall serve at the pleasure of  
21 the secretary. The director shall be in the unclassified service under the  
22 Kansas civil service act and shall receive an annual salary fixed by the  
23 secretary of labor, with the approval of the governor. The director of  
24 workers compensation shall be an attorney admitted to practice law in  
25 the state of Kansas. The director shall devote full time to the duties of  
26 such office and shall not engage in the private practice of law during the  
27 director's term of office.

28 (b) The director of workers compensation may appoint two assistant  
29 directors of workers compensation and also may appoint *in accordance*  
30 *with subsections (c) and (e)* not to exceed 10 administrative law judges.  
31 Such assistant directors and administrative law judges shall be in the clas-  
32 sified service. The assistant directors shall act for and exercise the powers  
33 of the director of workers compensation to the extent authority to do so  
34 is delegated by the director. The assistant directors and administrative  
35 law judges shall be attorneys admitted to practice law in the state of  
36 Kansas, and shall have such powers, duties and functions as are assigned  
37 to them by the director or are prescribed by law. The assistant directors  
38 and administrative law judges shall devote full time to the duties of their  
39 offices and shall not engage in the private practice of law during their  
40 terms of office.

41 (c) Assistant directors and administrative law judges shall be selected  
42 by the director of workers compensation, with the approval of the sec-  
43 retary of labor. Each appointee shall be subject to either dismissal or

1 suspension of up to 30 days for any of the following:

2 (1) Failure to conduct oneself in a manner appropriate to the ap-  
3 pointee's professional capacity;

4 (2) failure to perform duties as required by the workers compensation  
5 act; ~~or~~

6 (3) any reason set out for dismissal or suspension in the Kansas civil  
7 service act or rules and regulations adopted pursuant thereto; *or*

8 (4) *with regard to administrative law judges, upon decision of the*  
9 *workers compensation advisory council as provided in subsection (f).*

10 (d) No appointee shall be appointed, dismissed or suspended for po-  
11 litical, religious or racial reasons or by reason of the appointee's sex.

12 (e) (1) *Applications for appointment as an administrative law judge*  
13 *under this section shall be submitted to the director of workers compen-*  
14 *sation. The director shall determine if an applicant meets the qualifica-*  
15 *tions for appointment. Qualified applicants will be submitted by the di-*  
16 *rector to the administrative law judge nominating committee established*  
17 *under paragraph (e)(2) for consideration.*

18 (2) *There is hereby established the administrative law judge nomi-*  
19 *nating committee which shall be composed of two members appointed as*  
20 *follows: The Kansas AFL-CIO and the Kansas chamber of commerce*  
21 *and industry shall each select one representative to serve on the admin-*  
22 *istrative law judge nominating committee and shall give written notice of*  
23 *the selection to the secretary who shall appoint such representatives to*  
24 *the committee. In the event of a vacancy occurring for any reason on the*  
25 *nominating committee, the respective member shall be replaced by the*  
26 *appointing organization with written notice of the appointment to the*  
27 *secretary of labor within 30 days of such vacancy.*

28 (3) *Upon being notified of a vacant administrative law judge position,*  
29 *the nominating committee shall consider all qualified applicants submitted*  
30 *by the director for the vacant position and nominate a qualified person.*  
31 *The nominating committee shall be required to reach unanimous agree-*  
32 *ment on any administrative law judge nomination. With respect to each*  
33 *person nominated, the director either shall accept and appoint the person*  
34 *nominated by the nominating committee or shall reject the nomination*  
35 *and request the nominating committee to nominate another person for*  
36 *the position. Upon receipt of any such request for the nomination of an-*  
37 *other person, the nominating committee shall nominate another person*  
38 *for the position in the same manner.*

39 (f) (1) *An administrative law judge appointed under this section shall*  
40 *be paid an annual salary equal to 85% of the annual salary prescribed by*  
41 *law for a district court judge. The secretary of labor shall establish stan-*  
42 *dards for the work performance of administrative law judges. The workers*  
43 *compensation advisory council shall conduct every four years a review of*

1 *the work performance of each administrative law judge appointed under*  
2 *this section. If the workers compensation advisory council finds that the*  
3 *work performance of an administrative law judge meets the standards for*  
4 *administrative law judges established by the secretary of labor, the work-*  
5 *ers compensation advisory council by motion adopted by the affirmative*  
6 *vote in open meeting of three of the five voting members who are ap-*  
7 *pointed as representatives of employers and three of the five voting mem-*  
8 *bers who are appointed as representatives of employees shall continue the*  
9 *administrative law judge in employment as an administrative law judge.*  
10 *If the workers compensation advisory council does not vote to continue*  
11 *an administrative law judge in employment as an administrative law*  
12 *judge, the administrative law judge shall be dismissed from such position.*  
13 *A dismissal under this subsection shall be final and shall not be subject to*  
14 *appeal under the Kansas civil service act.*

15 (2) *If a member of the workers compensation advisory council be-*  
16 *cause of ethical considerations requests to be replaced on the advisory*  
17 *council on a temporary basis for the consideration of the work perform-*  
18 *ance of an administrative law judge in employment as an administrative*  
19 *law judge, the appointing authority for that person shall appoint a qual-*  
20 *ified person to serve as a member pro tem of the council for purposes of*  
21 *participating in the review of the work performance of the administrative*  
22 *law judge.*

23 Sec. 2. K.S.A. 2004 Supp. 75-5708 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after its  
25 publication in the statute book.