

HOUSE BILL NO. 761

Introduced: 02/12/83

Referred to Committee on Judiciary: 02/12/83

Hearing: 2/18/83

Died in Committee

1 *Holbe* BILL NO. *761*
 2 INTRODUCED BY *Adley McCloud, Harry A. Daily*
 3 *Beyla Ramirez, Kitodum, Gene Brown*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ADDING TWO JUDGES TO
 5 THE OFFICE OF THE WORKERS' COMPENSATION JUDGE; PROVIDING FOR
 6 A CHIEF JUDGE AND STATING HIS ADMINISTRATIVE DUTIES;
 7 AMENDING SECTIONS 2-15-1014 AND 39-71-2901 THROUGH
 8 39-71-2909, MCA; AND PROVIDING AN EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 2-15-1014, MCA, is amended to read:

12 "2-15-1014. Office of workers' compensation judge
 13 judges -- allocation -- appointment -- salary. (1) There is
 14 the office of workers' compensation judge judges. The
 15 office is allocated to the department of administration for
 16 administrative purposes only as prescribed in 2-15-121.

17 (2) The governor shall appoint the ~~three~~ workers'
 18 compensation judge judges for a term of 6 years in the same
 19 manner provided by Title 3, chapter 1, part 10, for the
 20 appointment of supreme or district court judges. A vacancy
 21 shall be filled in the same manner as the original
 22 appointment.

23 (3) To be eligible for workers' compensation judge, a
 24 person must:

25 (a) have the qualifications necessary for district

1 court judges found in Article VII, section 9, of the Montana
 2 constitution;

3 (b) devote full time to the duties of workers'
 4 compensation judge and not engage in the private practice of
 5 law.

6 (4) The workers' compensation judge--~~its~~ judges are
 7 entitled to the same salary and other emoluments as that of
 8 a district judge but shall be accorded retirement benefits
 9 under the public employees' retirement system.

10 ~~(5) The judge with the most years of experience as a~~
 11 ~~workers' compensation judge is the chief workers'~~
 12 ~~compensation judge and shall administer the affairs and~~
 13 ~~proceedings of the office of workers' compensation judges.~~
 14 ~~He shall provide for the hearing of petitions and of appeals~~
 15 ~~from the division by the workers' compensation judges at~~
 16 ~~appropriate times and places throughout the state."~~

17 Section 2. Section 39-71-2901, MCA, is amended to
 18 read:

19 "39-71-2901. Location of office. The principal office
 20 of the workers' compensation judge judges shall be in the
 21 city of Helena."

22 Section 3. Section 39-71-2902, MCA, is amended to
 23 read:

24 "39-71-2902. Operating expenses. The chief workers'
 25 compensation judge may employ such employees as may be

required to carry out the duties under this part. All expenditures of the workers' compensation judge judges, including but not limited to salaries, traveling expenses, office rent, office equipment, and supplies, shall be paid out of the workers' compensation administration fund."

Section 4. Section 39-71-2903, MCA, is amended to read:

"39-71-2903. Administrative procedure act applicable -- Judge not bound by rules of evidence. ~~All proceedings and hearings~~ Any proceeding or hearing before the a workers' compensation judge shall be in accordance with the appropriate provisions of the Montana Administrative Procedure Act. However, the a workers' compensation judge is not bound by common law and statutory rules of evidence."

Section 5. Section 39-71-2904, MCA, is amended to read:

"39-71-2904. Direct appeal to supreme court. Notwithstanding 2-4-701 through 2-4-704, an appeal from a final decision of the a workers' compensation judge shall be filed directly with the supreme court of Montana in the manner provided by law for appeals from the district court in civil cases."

Section 6. Section 39-71-2905, MCA, is amended to read:

"39-71-2905. Petition to chief workers' compensation

judge. ~~11~~ A claimant or an insurer who has a dispute concerning any benefits under chapter 71 of this title may petition the chief workers' compensation judge for a determination of the dispute.

~~121 The A workers' compensation judge, after a hearing at a time and place determined by the chief workers' compensation judge, shall make a determination of the dispute in accordance with the law as set forth in chapter 71 of this title. If the dispute relates to benefits due a claimant under chapter 71, the judge shall fix and determine any benefits to be paid and specify the manner of payment.~~

~~131 The office of workers' compensation judge judges has exclusive jurisdiction to make determinations concerning disputes under chapter 71. The penalties and assessments allowed against an insurer under chapter 71 are the exclusive penalties and assessments that can be assessed against an insurer for disputes arising under chapter 71."~~

Section 7. Section 39-71-2906, MCA, is amended to read:

"39-71-2906. Nominal disability awards. The A judge may grant a nominal disability awards award in cases a case where it is found that an accident has occurred in the course and scope of employment but no disability has resulted therefrom."

Section 8. Section 39-71-2907, MCA, is amended to

1 read:

2 "39-71-2907. Increase in award for unreasonable delay
3 or refusal to pay. When payment of compensation has been
4 unreasonably delayed or refused by an insurer, either prior
5 or subsequent to the issuance of an order by the a workers'
6 compensation judge granting a claimant compensation
7 benefits, the full amount of the compensation benefits due a
8 claimant, between the time compensation benefits were
9 delayed or refused and the date of the order granting a
10 claimant compensation benefits, may be increased by the
11 workers'---compensation judge by 20%. The question of
12 unreasonable delay or refusal shall be determined by the
13 workers'---compensation judge, and such a finding constitutes
14 good cause to rescind, alter, or amend any order, decision,
15 or award previously made in the cause for the purpose of
16 making the increase provided herein."

17 Section 9. Section 39-71-2908, MCA, is amended to
18 read:

19 "39-71-2908. Review of orders allowing compromise
20 settlements of claims. All orders allowing full and final
21 compromise settlements of workers' compensation claims shall
22 be immediately referred to the chief workers' compensation
23 judge, and the a workers' compensation judge may, within 10
24 days of the judge's receipt of an order, disapprove an order
25 allowing a full and final compromise settlement."

1 Section 10. Section 39-71-2909, MCA, is amended to
2 read:

3 "39-71-2909. Authority to review, diminish, or
4 increase awards -- limitation. ~~The a workers' compensation~~
5 judge may, upon the petition of a claimant or an insurer ~~to~~
6 ~~the chief workers' compensation judge~~ that the disability of
7 the claimant has changed, review, diminish, or increase, in
8 accordance with the law on benefits as set forth in chapter
9 71 of this title, any benefits previously awarded by the a
10 judge or benefits received by a claimant through settlement
11 agreements. However, the judge may not change any final
12 settlement or award of compensation more than 4 years after
13 the settlement has been approved by the division or any
14 order approving a full and final compromise settlement of
15 compensation."

16 NEW SECTION. Section 11. Effective date. This act is
17 effective July 1, 1983.

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