

**342.230 Employees of Department of Workers' Claims -- Duties and salary of commissioner -- Appointment, qualifications, terms, and duties of administrative law judges -- Removal provisions -- Vacancies -- Chief administrative law judge.**

- (1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, administrative law judges, and board members, shall be members of the classified service.
- (2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him or her, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board and the administrative law judges; annually report the activities of the board and the administrative law judges to the Governor; and devote his or her full time to the duties of his or her office. The commissioner shall be paid a salary not less than the salary of a member of the board.
- (3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than nineteen (19) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.
- (4) To ensure that the administrative law judges perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.
- (5) The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge. A member of

the board or an administrative law judge may be removed for good cause, including violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.

- (6) Any vacancy in the term of an administrative law judge, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.
- (7)
  - (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
  - (b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
- (8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars (\$3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1801, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 514, sec. 12, effective July 14, 2000. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 10, effective December 12, 1996. -- Amended

1994 Ky. Acts ch. 181, Part 3, sec. 12, effective April 4, 1994. -- Amended 1964 Ky. Acts ch. 192, sec. 16. -- Amended 1990 Ky. Acts ch. 33, sec. 1, effective March 7, 1990, -- Amended 1987 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 25, effective January 4, 1988. -- Amended 1984 Ky. Acts ch. 414, sec. 37, effective July 13, 1984, -- Amended 1976 Ky. Acts ch. 160, sec. 5. -- Amended 1954 Ky. Acts ch. 222, sec. 2. - - Amended 1948 Ky. Acts ch. 64, sec. 13. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4618-112, 4923.