

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1456

By: Treat

AS INTRODUCED

An Act relating to the Workers' Compensation Court of Existing Claims; amending 20 O.S. 2021, Section 30.14, which relates to divisions of the Court of Civil Appeals; establishing Court of Existing Claims (CEC) Division of the Court of Civil Appeals; clarifying certain jurisdiction; amending 85A O.S. 2021, Section 122, as amended by Section 1, Chapter 19, 1st Extraordinary Session, O.S.L. 2023 (85A O.S. Supp. 2023, Section 122), which relates to costs of administering act; conforming language; amending 85A O.S. 2021, Sections 400, 401, and 401.1, which relate to the Workers' Compensation Court, the Workers' Compensation Court of Existing Claims Revolving Fund, and the Workers' Compensation Administrative Fund; renaming the Workers' Compensation Court of Existing Claims; providing judge to serve on certain division as additional duty; terminating appointment of Administrator of the Court of Existing Claims; transferring certain duties to the Administrative Director of the Courts; modifying certain contract authority; requiring Division to operate by certain rules; modifying designation as court of record; specifying allowable locations for certain hearings; requiring institutions of higher education to make facilities available under certain circumstances; granting judge certain contempt authority; specifying jurisdiction of Division; establishing procedures for conducting business of Division; providing procedures for appeal of certain decisions; preserving certain rights and penalties; requiring electronic submission of certain report by the Administrative Director of the Courts; requiring inclusion of certain information in report; modifying certain employment authority; modifying names of certain funds; modifying requirements for administration of certain funds; updating statutory references; updating

1 statutory language; providing an effective date; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 20 O.S. 2021, Section 30.14, is
6 amended to read as follows:

7 Section 30.14. A. 1. In addition to the provisions of
8 Sections 30.1 through ~~30.12~~ 30.19 of Title 20 of the Oklahoma
9 Statutes, and in addition to the four permanent divisions
10 established by Section 30.2 of Title 20 of the Oklahoma Statutes,
11 the Court of Civil Appeals shall consist of as many additional
12 divisions as the Supreme Court may deem advisable to convene for
13 prompt disposition of its docket. Each division shall consist of
14 three Judges, at least two of whom shall concur in any decision. In
15 the exercise of its powers granted by Article VII, Section 6 of the
16 Oklahoma Constitution, the Supreme Court shall make temporary
17 assignments of judicial officers, active or retired, and lawyers,
18 having prior to their assignment the qualifications of a district
19 judge, to sit on a division of the Court of Civil Appeals convened
20 under the authority of this ~~act~~ section. Each division of the Court
21 of Civil Appeals shall select its presiding Judge. The Supreme
22 Court may prescribe by rule where the division shall sit and how
23 that Court shall conduct its business and practice before it.

1 2. The Court of Civil Appeals shall establish a division to be
2 referred to as the Court of Existing Claims (CEC) Division of the
3 Court of Civil Appeals which shall be vested with jurisdiction over
4 all claims filed pursuant to the Workers' Compensation Code or
5 previous statute in effect on the date of an injury that occurred
6 before February 1, 2014. In no event does the CEC Division have
7 jurisdiction over any claim arising on or after the effective date
8 of this act.

9 B. Each division of the Court of Civil Appeals convened under
10 the authority of this ~~act~~ section shall have jurisdiction to
11 determine or otherwise dispose of any case assigned to it by the
12 Supreme Court, and its decisions, when final, shall be neither
13 appealable to the Supreme Court nor be subject to reexamination by
14 another division of the Court of Civil Appeals or by the Judges of
15 that Court sitting en banc. The Supreme Court may recall a case
16 from the Court of Civil Appeals; it may review a decision of the
17 Court of Civil Appeals when a majority of its Justices direct that
18 certiorari be granted. In any case assigned to it by the Supreme
19 Court, the Court of Civil Appeals shall have the power to issue
20 writs of habeas corpus, mandamus, quo warranto, certiorari, and
21 prohibition.

22 C. The opinions of the Court of Civil Appeals shall be written
23 in the form prescribed by the Supreme Court. No opinion of the
24 Court of Civil Appeals shall be binding or cited as a precedent

1 unless it has been approved by the Supreme Court for publication in
2 the official reporter. The Supreme Court shall prescribe by rule
3 which opinion or decision, if any, of the Court of Civil Appeals
4 shall be published in the unofficial reporter.

5 D. The jurisdiction, powers, duties and procedures of the Court
6 of Civil Appeals shall be as provided by rules of the Supreme Court
7 unless otherwise provided by statute.

8 E. No judicial officer, except as otherwise authorized by law,
9 temporarily assigned to sit on the Court of Civil Appeals shall be
10 entitled to additional compensation for judicial service on that
11 Court. Expenses of judicial officers and lawyers assigned to the
12 Court of Civil Appeals incurred in performing their duties shall be
13 reimbursed pursuant to the State Travel Reimbursement Act, Section
14 500.1 et seq. of Title 74 of the Oklahoma Statutes.

15 F. The Supreme Court shall prescribe by rule the scope of
16 review it will afford when a petition for certiorari to the Court of
17 Civil Appeals is filed.

18 SECTION 2. AMENDATORY 85A O.S. 2021, Section 122, as
19 amended by Section 1, Chapter 19, 1st Extraordinary Session, O.S.L.
20 2023 (85A O.S. Supp. 2023, Section 122), is amended to read as
21 follows:

22 Section 122. A. The Workers' Compensation Commission Revolving
23 Fund established by Section 28.1 of this title shall be used for the
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1 costs of administering the Administrative Workers' Compensation Act
2 and for other purposes as authorized by law.

3 B. For the purpose of providing funds for the Workers'
4 Compensation Commission Revolving Fund, for the Workers'
5 Compensation Court of Existing Claims (CEC) Division of the Court of
6 Civil Appeals Administrative Fund created in Section 401.1 of this
7 title, for the Multiple Injury Trust Fund created in Section 28 of
8 this title, and to fund other provisions within this title, the
9 following tax rates shall apply:

10 1. Each mutual or interinsurance association, stock company,
11 CompSource Mutual Insurance Company or other insurance carrier
12 writing workers' compensation insurance in this state shall pay to
13 the Oklahoma Tax Commission an assessment at a rate of one percent
14 (1%) of all gross direct premiums written during each quarter of the
15 calendar year for workers' compensation insurance on risks located
16 in this state after deducting from such gross direct premiums,
17 return premiums, unabsorbed portions of any deposit premiums, policy
18 dividends, safety refunds, savings and other similar returns paid or
19 credited to policyholders. Such payments to the Oklahoma Tax
20 Commission shall be made not later than the fifteenth day of the
21 month following the close of each quarter of the calendar year in
22 which such gross direct premium is collected or collectible.

23 Contributions made by insurance carriers and CompSource Mutual
24 Insurance Company, under the provisions of this section, shall be

1 considered for the purpose of computing workers' compensation rates;
2 and

3 2. When an employer is authorized to become a self-insurer, the
4 Commission shall so notify the Oklahoma Tax Commission, giving the
5 effective date of such authorization. The Oklahoma Tax Commission
6 shall then assess and collect from the employers carrying their own
7 risk an assessment at the rate of two percent (2%) of the total
8 compensation for permanent total disability awards, permanent
9 partial disability awards and death benefits paid out during each
10 quarter of the calendar year by the employers. Such assessment
11 shall be payable by the employers and collected by the Oklahoma Tax
12 Commission according to the provisions of this section regarding
13 payment and collection of the assessment created in paragraph 1 of
14 this subsection.

15 C. It shall be the duty of the Oklahoma Tax Commission to
16 collect the payments provided for in this title. The Oklahoma Tax
17 Commission is hereby authorized to bring an action for the recovery
18 of any delinquent or unpaid payments required in this section. The
19 Oklahoma Tax Commission may also enforce payments by proceeding in
20 accordance with the provisions of Section 98 of this title.

21 D. The Oklahoma Tax Commission shall pay monthly to the State
22 Treasurer to the credit of the Multiple Injury Trust Fund all monies
23 collected under the provisions of this section, less the annual
24 amounts which shall be apportioned by the Oklahoma Tax Commission,

1 as follows; provided, however, if the fund in any one month is
2 insufficient to make the required payments, the unpaid portion shall
3 be paid as soon as funds become available:

4 1. Five Million Five Hundred Thousand Dollars (\$5,500,000.00)
5 shall be payable each fiscal year in equal monthly installments to
6 the credit of the Workers' Compensation Commission Revolving Fund
7 established in Section 28.1 of this title to be used to implement
8 the provisions of this title; and

9 2. One Million Seven Hundred Fifty Thousand Dollars
10 (\$1,750,000.00) shall be payable in equal monthly installments to
11 the credit of the Workers' Compensation Court of Existing Claims
12 (CEC) Division of the Court of Civil Appeals Administrative Fund
13 established in Section 401.1 of this title for the fiscal year
14 ending June 30, 2023, and Two Hundred Fifty Thousand Dollars
15 (\$250,000.00) payable in equal monthly installments to such fund for
16 the fiscal year beginning July 1, 2023, and each subsequent fiscal
17 year.

18 Monies deposited in the Workers' Compensation Court of Existing
19 Claims (CEC) Division of the Court of Civil Appeals Administrative
20 Fund shall be used by the Workers' Compensation Court of Existing
21 Claims (CEC) Division to implement provisions provided for in this
22 title. All unencumbered funds remaining in the Workers'
23 Compensation Administration Court of Existing Claims (CEC) Division
24 of the Court of Criminal Appeals Administrative Fund on July 1,

1 2027, shall be transferred to the State Treasurer to be returned to
2 the Multiple Injury Trust Fund.

3 E. The refund provisions of Sections 227 through 229 of Title
4 68 of the Oklahoma Statutes shall be applicable to any payments made
5 pursuant to this section.

6 SECTION 3. AMENDATORY 85A O.S. 2021, Section 400, is
7 amended to read as follows:

8 Section 400. A. The Workers' Compensation Court of Existing
9 Claims (CEC) shall be renamed the ~~Workers' Compensation~~ Court of
10 Existing Claims (CEC) Division of the Court of Civil Appeals as
11 established by Section 30.14 of Title 20 of the Oklahoma Statutes
12 for the purpose of hearing disputes relating to claims that ~~arise~~
13 arose before February 1, 2014. ~~The Court shall consist of the~~
14 ~~existing judges for the remainder of his or her term. Each judge of~~
15 ~~the Court shall continue to serve as the appointment to a designated~~
16 ~~position on the Court. The terms of the judges by position number~~
17 ~~shall expire on the following dates:~~

18 ~~Position 4 shall expire 7-1-20.~~

19 ~~Position 5 shall expire 7-1-20.~~

20 ~~Position 8 shall expire 7-1-20.~~

21 ~~Position 9 shall expire 7-1-20.~~

22 B. Effective ~~July 1, 2020~~ July 1, 2024, the ~~Workers'~~
23 ~~Compensation Court of Existing Claims~~ CEC Division of the Court of
24 Civil Appeals shall consist of one judge ~~to be appointed by the~~

1 ~~Governor, with confirmation by the Senate. The judge shall be~~
2 ~~appointed for a term to expire on July 1, 2022. The Governor shall~~
3 ~~select the judge from a list of three applicants submitted to the~~
4 ~~Governor by the Judicial Nominating Commission. If the list is not~~
5 ~~acceptable to the Governor, the Governor may request from the~~
6 ~~Judicial Nominating Commission a list of names of three additional~~
7 ~~applicants. Any present judge of the Court of Existing Claims may~~
8 ~~apply to the Judicial Nominating Commission for appointment to fill~~
9 ~~any position authorized by this section who currently serves as a~~
10 ~~member of the Court of Civil Appeals on a rotational basis as~~
11 ~~determined by the Chief Justice of the Supreme Court. Such~~
12 ~~appointment shall be an additional duty requirement.~~

13 C. ~~A judge may be removed for cause by the Court on the~~
14 ~~Judiciary prior to the expiration of his or her term.~~

15 D. ~~Each judge shall receive a salary equal to that paid to a~~
16 ~~district judge of this state, and shall devote full time to his or~~
17 ~~her duties and shall not engage in the private practice of law~~
18 ~~during the term in office.~~

19 E. ~~If a vacancy occurs on the Court of Existing Claims, the~~
20 ~~Governor shall appoint a judge to serve the remainder of the term~~
21 ~~from a list of three applicants submitted to the Governor by the~~
22 ~~Judicial Nominating Commission, with confirmation of the State~~
23 ~~Senate. If the list is not acceptable to the Governor, the Governor~~

1 ~~may request from the Judicial Nominating Commission a list of the~~
2 ~~names of three additional applicants.~~

3 ~~F. 1. Effective January 1, 2020 July 1, 2024, the Governor~~
4 ~~shall appoint an appointment of the Administrator of the Court of~~
5 ~~Existing Claims, who shall serve at the pleasure of the Governor.~~
6 ~~The Administrator shall be appointed by the Governor with the advice~~
7 ~~and consent of the Senate. The compensation for the Administrator~~
8 ~~shall be set at ninety percent (90%) of the compensation of a~~
9 ~~district court judge shall terminate, with all duties to be assumed~~
10 ~~by the Administrative Director of the Courts.~~

11 2. The ~~Administrator~~ Director shall employ and supervise the
12 work of employees of the CEC Division of the Court of Civil Appeals
13 and shall have the authority to expend funds and contract on behalf
14 of the ~~Court~~ CEC Division. The ~~Administrator~~ Director may contract
15 with the Oklahoma Workers' Compensation Commission to provide
16 support services or personnel needs necessary to carry out the
17 purposes of the ~~Court~~ CEC Division and shall supervise the work of
18 any such personnel as necessary to maintain the CEC Division of the
19 Court of Civil Appeals as a Court of Record.

20 ~~G. D.~~ The CEC Division of the Court of Existing Claims Civil
21 Appeals shall contract with the Oklahoma Workers' Compensation
22 Commission to integrate its case management and records Information
23 Technology System into the system of the Oklahoma Workers'
24 Compensation Commission with such integration to be completed on or

1 before ~~July 1, 2022~~ July 1, 2024. The CEC Division shall contract
2 with the Oklahoma Workers' Compensation Commission to pay for the
3 cost of such integration and costs associated with the maintenance
4 and upgrades to the system. ~~The Court~~ Commission shall be entitled
5 to any fees generated for the retrieval of such data.

6 ~~H.~~ E. ~~The Court~~ CEC Division shall operate by the rules adopted
7 by the Workers' Compensation Court prior to February 1, 2014.

8 ~~I.~~ F. The Court of Civil Appeals is hereby designated and
9 confirmed as a court of record for any and all cases of the Court of
10 Existing Claims Division, with respect to any matter within the
11 limits of its jurisdiction, and within such limits the judges
12 thereof shall possess the powers and prerogatives of the judges of
13 the other courts of record of this state including the power to
14 punish for contempt those persons who disobey a subpoena, or refuse
15 to be sworn or to answer as a witness, when lawfully ordered to do
16 so.

17 ~~J.~~ G. ~~The principal office~~ CEC Division of the Court ~~shall be~~
18 ~~situated in the City of Oklahoma City in quarters assigned by the~~
19 ~~Office of Management and Enterprise Services.~~ ~~The Court~~ of Civil
20 Appeals may hold hearings in any city of this state.

21 ~~K.~~ H. All county commissioners, ~~and~~ presiding district judges
22 of this state, or institutions of higher education shall make
23 quarters available for the conducting of hearings by a judge of the
24 ~~Court~~ CEC Division upon request by the Court.

1 ~~L. I. Judges~~ The designated judge of the Workers' Compensation
2 CEC Division of the Court of Existing Claims Civil Appeals may
3 punish for direct contempt pursuant to Sections 565, 565.1 and 566
4 of Title 21 of the Oklahoma Statutes.

5 ~~M. J.~~ The CEC Division of the Court of Civil Appeals as
6 established by Section 30.14 of Title 20 of the Oklahoma Statutes
7 shall be vested with jurisdiction over all claims filed pursuant to
8 the Workers' Compensation Code or previous statute in effect on the
9 date of an injury that occurred before February 1, 2014. In no
10 event does the CEC Division have jurisdiction over any claim arising
11 on or after the effective date of this act. All claims so filed
12 shall be heard by the judge sitting without a jury. ~~The Court~~ CEC
13 Division shall have full power and authority to determine all
14 questions in relation to payment of claims for compensation under
15 the provisions of the Workers' Compensation Code or previous statute
16 in effect on the date of an injury that occurred before February 1,
17 2014. ~~The Court~~ CEC Division, upon application of either party,
18 shall order a hearing. Upon a hearing, either party may present
19 evidence and be represented by counsel. The decision of the ~~Court~~
20 designated judge of the CEC Division shall be final as to all
21 questions of fact and law; provided, the decision of the ~~Court~~ judge
22 may be appealed to ~~the~~ a division of the Court en-banc of Civil
23 Appeals of which the judge is not a member, or the Supreme Court as
24 provided by the Workers' Compensation Code or previous statute in

1 effect on the date of an injury that occurred before February 1,
2 2014. ~~In the event that an insufficient number of active judges are~~
3 ~~available to comprise the three-judge en banc panel, retired or~~
4 ~~former judges of the district court, Workers' Compensation Court or~~
5 ~~Workers' Compensation Court of Existing Claims may be designated by~~
6 ~~the Presiding Judge of the Court of Existing Claims as eligible to~~
7 ~~serve on such panel. The Governor shall provide to the Court of~~
8 ~~Existing Claims a list of designated judges eligible for service on~~
9 ~~the Court en banc. The decision of the Court judge of the CEC~~
10 Division shall be issued within thirty (30) days following the
11 submission of the case by the parties. The power and jurisdiction
12 of the Court over each case shall be continuing and it may, from
13 time to time, make such modifications or changes with respect to
14 former findings or orders relating thereto if, in its opinion, it
15 may be justified.

16 ~~N.~~ K. For an injury occurring before February 1, 2014, all
17 benefits and procedures to obtain benefits shall be determined by
18 the workers' compensation law of this state in effect on the date of
19 the injury.

20 ~~Ø.~~ L. All accrued rights and penalties incurred pursuant to a
21 final order of the Workers' Compensation Court or the CEC Division
22 of the Court of Civil Appeals shall be preserved. No accrued right,
23 penalty incurred, or proceeding begun by virtue of a statute
24 repealed by this act shall be abrogated by the terms of this act.

1 P. M. Annually, on or before the first day of July, commencing
2 with July 2019, the ~~Administrator~~ Administrative Director of the
3 Courts shall prepare and submit electronically a report for the
4 prior calendar year to the Governor, the Chief Justice of the
5 Supreme Court, the President Pro Tempore of the Senate and the
6 Speaker of the House of Representatives which shall include a
7 statement of the number of awards made and the causes of the
8 accidents leading to the injuries for which the awards were made,
9 total work load data of the CEC Division of the Court of Civil
10 Appeals, a detailed report of the work load of the judges of the CEC
11 Division of the Court, a detailed statement of the expenses of the
12 ~~office of the Administrator of Workers' Compensation Court of~~
13 ~~Existing Claims~~ CEC Division, together with any other matter which
14 the ~~Administrator~~ Director deems proper to report to the Governor
15 including any recommendations he or she may desire to make.

16 ~~Q. Subject to the availability of funds, the Judge of the Court~~
17 ~~of Existing Claims may employ one at will full or part-time special~~
18 ~~workers' compensation judge with jurisdiction to hear cases as set~~
19 ~~forth in subsection M of this section and as may be assigned by the~~
20 ~~Judge. The special workers' compensation judge shall receive~~
21 ~~compensation for such services in accordance with the provisions of~~
22 ~~Section 92.1A of Title 20 of the Oklahoma Statutes.~~

23 SECTION 4. AMENDATORY 85A O.S. 2021, Section 401, is
24 amended to read as follows:

1 Section 401. There is hereby created in the State Treasury a
2 revolving fund for the ~~Workers' Compensation~~ Court of Existing
3 Claims (CEC) Division of the Court of Civil Appeals to be designated
4 the "~~Workers' Compensation~~ Court of Existing Claims (CEC) Division
5 of the Court of Civil Appeals Revolving Fund". The fund shall be a
6 continuing fund, not subject to fiscal year limitations, and shall
7 consist of all monies received by the ~~Workers' Compensation~~ CEC
8 Division of the Court of Existing Claims Civil Appeals from all
9 fees, penalties and fines imposed by the ~~Workers' Compensation~~ CEC
10 Division of the Court of Existing Claims Civil Appeals or its
11 ~~Administrator~~ the Administrative Director of the Courts. All monies
12 accruing to the credit of ~~said~~ such fund are hereby appropriated and
13 may be budgeted and expended by the ~~Workers' Compensation~~ CEC
14 Division of the Court of Existing Claims Civil Appeals for the
15 purpose of defraying necessary expenses of the ~~Workers' Compensation~~
16 ~~Court of Existing Claims~~ CEC Division in performance of its duties.
17 Expenditures from ~~said~~ such fund shall be made upon warrants issued
18 by the State Treasurer against claims filed as prescribed by law
19 with the Director of the Office of Management and Enterprise
20 Services for approval and payment.

21 SECTION 5. AMENDATORY 85A O.S. 2021, Section 401.1, is
22 amended to read as follows:

23 Section 401.1. There is hereby created in the State Treasury a
24 revolving fund for the ~~Workers' Compensation~~ Court of Existing
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1 Claims (CEC) Division of the Court of Civil Appeals to be designated
2 the "~~Workers' Compensation~~ Court of Existing Claims (CEC) Division
3 of the Court of Civil Appeals Administrative Fund". The fund shall
4 be a continuing fund, not subject to fiscal year limitations, and
5 shall consist of all monies received by the Workers' Compensation
6 Court of Existing Claims from revenues apportioned pursuant to
7 Section 122 of Title 85A of the Oklahoma Statutes. All monies
8 accruing to the credit of ~~said~~ such fund are hereby appropriated and
9 may be budgeted and expended by the ~~Workers' Compensation~~ CEC
10 Division of the Court of Existing Claims Civil Appeals for the
11 purpose of ~~funding the operations of the Court, for~~ administering
12 the provisions of Titles 85 and 85A of the Oklahoma Statutes,
13 contracting with the Oklahoma Workers' Compensation Commission to
14 provide support services or personnel needs necessary to carry out
15 the purposes of the CEC Division of the Court of Civil Appeals, and
16 for any other purpose related to the Administrative Workers'
17 Compensation Act that the Court deems appropriate. Expenditures
18 from ~~said~~ such fund shall be made upon warrants issued by the State
19 Treasurer against claims filed as prescribed by law with the
20 Director of the Office of Management and Enterprise Services for
21 approval and payment.

22 SECTION 6. This act shall become effective July 1, 2024.

23 SECTION 7. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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