

342.213 Workers' Compensation Nominating Committee -- Membership -- Duties with respect to appointments.

- (1) The Governor shall make all appointments to the board, and appoint the administrative law judges of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section and KRS 342.215 and 342.230 by choosing from names presented to him or her by the Workers' Compensation Nominating Committee.
- (2) The Workers' Compensation Nominating Committee shall consist of five (5) members appointed by the Governor as follows:
 - (a)
 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of two (2) years;
 2. One (1) member of the political party having the largest number of registered voters shall serve a term of three (3) years; and
 3. Thereafter, upon the expiration of a term, the vacancy created shall be filled by an appointee from the same political party for a term of four (4) years;
 - (b)
 1. Two (2) members who shall be attorneys with experience in the practice of workers' compensation, one (1) who customarily represents claimants and one (1) who customarily represents employers, each of whom shall serve a term of four (4) years; and
 2. Thereafter, upon expiration of a term, the vacancy shall be filled by an appointee who meets the same required qualifications or criteria and who shall serve a term of four (4) years;
 - (c) Appointments to fill the unexpired term of a member due to the resignation of a member, removal of a member pursuant to KRS 63.080, or any other reason shall be for the remainder of the term, and the new appointee shall meet the same required qualifications or criteria as stated in this section; and
 - (d) At the first meeting of each calendar year, the members shall select a chairman of the nominating committee who shall serve as chairman for the duration of that calendar year.
- (3) Notwithstanding the provisions of subsection (2) of this section, at least two (2) members of the Workers' Compensation Nominating Committee shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor shall remove any existing member of the Workers' Compensation Nominating Committee who directly derives earned income from the workers' compensation program and replace that member with an individual who does not derive earned income from the workers' compensation program.
- (4) The commissioner shall monitor the workload of the administrative law judges and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges, and when a vacancy occurs under other

circumstances, the commissioner shall certify to the Workers' Compensation Nominating Committee that filling the position is necessary and the Workers' Compensation Nominating Committee shall act to fill only such positions as have been certified as necessary by the commissioner.

- (5) (a) The Workers' Compensation Nominating Committee shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of the administrative law judges. The Workers' Compensation Nominating Committee may recommend retention of any sitting administrative law judge, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Committee shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge.
 - (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Committee shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.
- (6) The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating committee shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating committee shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
 - (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating committee, the previous appointee may remain in the position until the ninetieth day following the date the nominating committee provided the Governor with its list of names, at which time he or she shall vacate the position.
- (8) (a) The nominating committee shall meet as often as necessary to perform its statutory responsibilities, including but not limited to the mandates enumerated in this section, and a majority of the members shall constitute a quorum for the transaction of business; and
 - (b) The members shall be reimbursed from funds collected pursuant to KRS

342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. Members of the nominating committee shall not be paid for their attendance at any meeting.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 83, sec. 1, effective June 29, 2017; and ch. 134, sec. 8, effective June 29, 2017. -- Amended 2010 Ky. Acts ch. 24, sec. 1797, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 514, sec. 10, effective July 14, 2000. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 7, effective December 12, 1996. -- Amended 1994 Ky. Acts ch. 181, Part 3, sec. 9, effective April 4, 1994. -- Created 1987 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 24, effective October 26, 1987.

Legislative Research Commission Note (6/29/2017). 2017 Ky. Acts ch. 83, sec. 6, states, "Notwithstanding subsection (8)(b) of Section 1 of this Act [this statute], any member of the Workers Compensation Nominating Committee who previously served on the Workers Compensation Nominating Commission prior to May 9, 2016, and who was appointed to the committee pursuant [to] Executive Order 2016-319 shall be paid at a rate of \$100 per day for each meeting attended for the duration of his or her term. These expenses shall be financed from funds collected pursuant to KRS 342.122."

Legislative Research Commission Note (6/29/2017). This statute was amended by 2017 Ky. Acts chs. 83 and 134, which do not appear to be in conflict and have been codified together.