

1 SENATE BILL NO. 4

2 INTRODUCED BY T. FACEY

3 BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING APPOINTMENT OF SUBSTITUTE WORKERS'
6 COMPENSATION JUDGES DURING A VACANCY; AND AMENDING SECTION 39-71-2901, MCA."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 39-71-2901, MCA, is amended to read:11 **"39-71-2901. Location of office -- court powers -- withdrawal -- substitution -- vacancy.** (1) The
12 principal office of the workers' compensation judge must be in the city of Helena.

13 (2) The workers' compensation court has power to:

14 (a) preserve and enforce order in its immediate presence;

15 (b) provide for the orderly conduct of proceedings before it and its officers;

16 (c) compel obedience to its judgments, orders, and process in the same manner and by the same
17 procedures as in civil actions in district court;

18 (d) compel the attendance of persons to testify; and

19 (e) punish for contempt in the same manner and by the same procedures as in district court.

20 (3) The workers' compensation judge shall withdraw from all or part of any matter if the judge believes
21 the circumstances make disqualification appropriate. In the case of a withdrawal, the workers' compensation
22 judge shall designate and contract for a substitute workers' compensation judge to preside over the proceeding
23 from the list provided for in subsection ~~(4)~~ ~~(6)~~ (7).24 (4) If the office of the workers' compensation judge becomes vacant and before the vacancy is
25 permanently filled pursuant to Title 3, chapter 1, part 10, the chief justice of the Montana supreme court shall
26 appoint a substitute judge within 30 days of receipt of the notice of vacancy. The chief justice shall select a
27 substitute judge from the list provided in subsection ~~(6)~~ (7) or from the pool of retired state district court judges.
28 The chief justice may appoint a substitute judge for a part of the vacancy or for the entire duration of the vacancy,
29 and more than one substitute judge may be appointed to fill a vacancy.30 (5) IF A TEMPORARY VACANCY OCCURS BECAUSE THE WORKERS' COMPENSATION JUDGE IS SUFFERING FROM

1 A DISABILITY THAT TEMPORARILY PRECLUDES THE JUDGE FROM CARRYING OUT THE DUTIES OF OFFICE FOR MORE THAN
2 60 DAYS, A SUBSTITUTE JUDGE MUST BE APPOINTED FROM THE SUBSTITUTE JUDGE LIST IDENTIFIED IN SUBSECTION (7)
3 BY THE CURRENT JUDGE, IF ABLE, OR BY THE CHIEF JUSTICE OF THE SUPREME COURT. THE SUBSTITUTE JUDGE MAY NOT
4 SERVE MORE THAN 90 DAYS AFTER APPOINTMENT UNDER THIS SUBSECTION. THIS SUBSECTION APPLIES ONLY IF THE
5 WORKERS' COMPENSATION JUDGE IS TEMPORARILY UNABLE TO CARRY OUT THE DUTIES OF OFFICE DUE TO A DISABILITY,
6 AND PROCEEDINGS TO PERMANENTLY REPLACE THE JUDGE UNDER TITLE 3, CHAPTER 1, PART 10, MAY NOT BE INSTITUTED.

7 ~~(5)(6)~~ The A substitute judge must be compensated at the same hourly rate charged by the department
8 of justice agency legal services bureau for the provision of legal services to state agencies. The A substitute judge
9 must be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. When ~~the a~~ a substitute
10 judge has accepted jurisdiction, the clerk of the workers' compensation court shall mail a copy of the assumption
11 of jurisdiction to each attorney or party of record. The certificate of service must be attached to the assumption
12 of jurisdiction form in the court file.

13 ~~(4)(6)(7)~~ The workers' compensation judge shall maintain a list of persons who are interested in serving
14 as a substitute workers' compensation judge in the event of a recusal by the judge or a vacancy and who prior
15 to being put on the list of potential substitutes have been admitted to the practice of law in Montana for at least
16 5 years, currently reside in Montana, and have resided in the state for 2 years."

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