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AN ACT  
RELATING TO WORKERS' COMPENSATION; PROVIDING FOR EMPLOYMENT  
ELIGIBILITY FOR FORMER OMBUDSMEN; PROVIDING FOR AN INCREASE  
IN THE WORKERS' COMPENSATION ADMINISTRATION DIRECTOR'S  
SALARY; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-5-1.4 NMSA 1978 (being Laws 1990  
(2nd S.S.), Chapter 2, Section 64) is amended to read:

"52-5-1.4. OMBUDSMAN PROGRAM.--

A. The director shall establish an ombudsman  
program to assist injured or disabled workers, persons  
claiming death benefits, employers and other persons in  
protecting their rights and obtaining information available  
under workers' compensation and occupational disease  
disablement laws.

B. An ombudsman shall meet with or otherwise  
provide information to injured or disabled workers,  
investigate complaints and communicate with employers,  
insurance carriers and health care providers on behalf of  
injured or disabled workers. An ombudsman shall otherwise  
assist unrepresented claimants, employers and other parties  
to enable them to protect their rights in the workers'  
compensation and occupational disease disablement system. At  
least one specially qualified employee in each location that

1 the administration has an office shall be designated by the  
2 director as an ombudsman, and duties described in this  
3 section shall be that person's primary responsibility. The  
4 director may designate additional ombudsmen and assign them  
5 as he deems appropriate.

6 C. An ombudsman need not be an attorney but shall  
7 demonstrate familiarity with workers' compensation and  
8 occupational disease disablement laws. Any person employed  
9 as an ombudsman shall be ineligible to hold any other  
10 position in the administration for at least one year from the  
11 date of leaving the position of ombudsman.

12 D. An ombudsman shall not be an advocate for any  
13 person and shall restrict his activities to providing  
14 information and facilitating communication. An ombudsman  
15 shall not assist a claimant, employer or any other person in  
16 any proceeding beyond the informal conference held pursuant  
17 to Section 52-5-5 NMSA 1978.

18 E. Each employer shall notify his employees of the  
19 ombudsman service in a manner prescribed by the director.  
20 The notice shall include the posting of a notice in one or  
21 more conspicuous places. The director shall also describe  
22 clearly the availability of the ombudsmen on the first report  
23 of accident form required under Section 52-1-58 NMSA 1978, or  
24 the first report of disablement form required under Section  
25 52-3-51 NMSA 1978."

1           Section 2. Section 52-5-2 NMSA 1978 (being Laws 1986,  
2 Chapter 22, Section 28, as amended) is amended to read:

3           "52-5-2. DIRECTOR--APPOINTMENT--EMPLOYEES--WORKERS'  
4 COMPENSATION JUDGES.--

5           A. The workers' compensation administration shall  
6 be in the charge of a director, who shall be appointed by the  
7 governor for a term of five years with the consent of the  
8 senate. The appointed director shall serve and have the  
9 authority of that office during the period of time prior to  
10 final action by the senate confirming or rejecting the  
11 appointment. The appointment shall be made on the basis of  
12 administrative ability, education, training and experience  
13 relevant to the duties of the director. Upon the expiration  
14 of the term, the director shall continue to serve until the  
15 successor is appointed and qualified. Before entering upon  
16 the duties, the director shall subscribe to an oath to  
17 faithfully discharge the duties of the office. The director  
18 shall devote full time to the duties of the office. The  
19 director's salary shall be equal to ninety-five percent of  
20 that of court of appeals judges.

21           B. The director shall appoint necessary workers'  
22 compensation judges. Workers' compensation judges shall not  
23 be subject to the provisions of the Personnel Act except as  
24 provided by Subsection C of this section. Workers'  
25 compensation judges shall be appointed for an initial term of

1 one year and shall be compensated at a rate equal to ninety  
2 percent of that of district court judges. Ninety days prior  
3 to the expiration of a workers' compensation judge's term,  
4 the director shall review his performance. If approved by  
5 the director, the workers' compensation judge may be  
6 reappointed to a subsequent five-year term.

7 C. Workers' compensation judges shall be lawyers  
8 licensed to practice law in this state and shall have a  
9 minimum five years' experience as a practicing lawyer. They  
10 shall devote their entire time to their duties and shall not  
11 engage in the private practice of law and shall not hold any  
12 other position of trust or profit or engage in any occupation  
13 or business interfering with or inconsistent with the  
14 discharge of their duties as workers' compensation judges. A  
15 workers' compensation judge shall be required to conform to  
16 all canons of the code of judicial conduct as adopted by the  
17 supreme court, except canon 21-900 of that code. Violation  
18 of those canons shall be exclusive grounds for dismissal  
19 prior to the expiration of his term. Any complaints against  
20 a workers' compensation judge shall be filed with the state  
21 personnel board, which shall report its findings to the  
22 director.

23 D. Workers' compensation judges shall have the  
24 same immunity from liability for their adjudicatory actions  
25 as district court judges."

1           Section 3. APPROPRIATION.--Four thousand four hundred  
2 forty-six dollars (\$4,446) is appropriated from the workers'  
3 compensation administration fund to the workers' compensation  
4 administration for expenditure in fiscal year 2005 to provide  
5 a salary increase for the director of the workers'  
6 compensation administration effective the first pay period  
7 after July 1, 2004. Any unexpended or unencumbered balance  
8 remaining at the end of fiscal year 2005 shall revert to the  
9 workers' compensation administration fund.

10           Section 4. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2004. \_\_\_\_\_

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