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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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