

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1049 Appropriations for the Division of Administrative Hearings  
**SPONSOR(S):** Government Operations & Technology Appropriations Subcommittee, Stone  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1298

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N, As CS	Keith	Topp
2) State Affairs Committee	20 Y, 0 N	Toliver	Williamson

### SUMMARY ANALYSIS

The Division of Administrative Hearings (DOAH) is administratively housed within the Department of Management Services, and is separated into two programs: the Adjudication of Disputes program, and the Workers' Compensation Appeals program. The mission of DOAH is to provide a uniform and impartial forum for the trial and resolution of disputes between private citizens and organizations and agencies of the state in an efficient and timely manner. DOAH also maintains a statewide mediation and adjudication system for the efficient and timely resolution of disputed workers' compensation claims. DOAH is headed by a division director (director) appointed by the Administration Commission, consisting of the Governor and Cabinet, and confirmed by the Florida Senate. The director is the chief administrative law judge and oversees the Adjudication of Disputes program. The Workers' Compensation Appeals program is housed within a subdivision of DOAH, the Office of the Judges of Compensation Claims (OJCC). The OJCC is headed by a Deputy Chief Judge of Compensation Claims, who reports to the director.

The OJCC is a separate budget entity from the Adjudication of Disputes program. Until January 1, 1994, salaries of the judges of compensation claims were linked to salaries of Circuit Court judges. Circuit Court judges salaries are established in s. 8 of the General Appropriations Act, and as of July 1, 2019, were set at \$160,688. The current annual salary of a judge of compensation claims is \$124,564.20, and the current annual salary of the Deputy Chief Judge of Compensation Claims is \$127,422.12.

Since the salaries were unlinked in 1994, salaries of judges of compensation claims have only increased when the Legislature has appropriated general state employee salary increases. The OJCC is funded solely from transfers from the Department of Financial Services' (DFS) Workers' Compensation Administration Trust Fund.

The bill provides that the salaries of judges of compensation claims will be equal to that of county court judges, with the exception of the Deputy Chief Judge of Compensation Claims, whose salary will be \$1,000 greater than the judges of compensation claims. The salary of a county court judge is currently \$151,822.

The bill provides a recurring appropriation of \$1,114,087 from the DOAH Operating Trust Fund, and associated salary rate of 870,392, to adjust the salaries of the Deputy Chief Judge and the judges of compensation claims. Funds expended from the DOAH Operating Trust Fund are from funds transferred from the DFS Workers' Compensation Administration Trust Fund pursuant to s. 440.50, F.S.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

The Division of Administrative Hearings (DOAH) is a quasi-judicial executive agency that aims to provide a uniform and impartial forum for the trial and resolution of disputes between private citizens and organizations and agencies of the state in an efficient and timely manner.<sup>1</sup>

DOAH is administratively housed within the Department of Management Services,<sup>2</sup> and is separated into two programs: the Adjudication of Disputes program and the Workers' Compensation Appeals program.<sup>3</sup> DOAH is headed by a division director (director), who serves as chief administrative law judge.<sup>4</sup> The director is appointed by the Administration Commission, a body consisting of the Governor and the Cabinet, and confirmed by the Senate.<sup>5</sup>

The Adjudication of Disputes program is headed by the director.<sup>6</sup> The Workers' Compensation Appeals program is housed within a subdivision of DOAH, the Office of the Judges of Compensation Claims (OJCC). The OJCC is headed by a Deputy Chief Judge of Compensation Claims who is appointed by the Governor to a term of four years and reports to the division director.<sup>7</sup>

The OJCC is a separate budget entity from the Adjudication of Disputes program.<sup>8</sup> The judges of compensation claims have exclusive jurisdiction over workers' compensation cases.<sup>9</sup> As soon as an employer disputes an employee's claim for workers' compensation, an employee may initiate litigation of the matter by filing a petition with the OJCC.<sup>10</sup> Even after a petition is filed, workers' compensation disputes may be resolved via mediation<sup>11</sup> or arbitration.<sup>12</sup> However, when necessary, judges of compensation claims may hold hearings to resolve the disputed matter.<sup>13</sup> Once the hearings are completed, the judge's order may be appealed to the First District Court of Appeal, which maintains sole appellate jurisdiction.<sup>14</sup>

The current annual salary of a judge of compensation claims is \$124,564.20, and the current annual salary of the Deputy Chief Judge of Compensation Claims is \$127,422.12.<sup>15</sup> Until January 1, 1994, salaries of the judges of compensation claims were linked to salaries of Circuit Court judges. Circuit Court judges salaries are established in s. 8 of the General Appropriations Act, and as of July 1, 2019, were set at \$160,688.<sup>16</sup> Since the salaries were unlinked in 1994, salaries of judges of compensation claims have only increased when the Legislature has appropriated general state employee salary increases. The OJCC is funded solely from transfers from the Department of Financial Services' (DFS) Workers' Compensation Administration Trust Fund.<sup>17</sup>

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<sup>1</sup> Department of Management Services, *Other Programs*, [https://www.dms.myflorida.com/other\\_programs](https://www.dms.myflorida.com/other_programs) (last visited Feb. 20, 2020).

<sup>2</sup> Section 120.65, F.S.

<sup>3</sup> DOAH, LONG RANGE PROGRAM PLAN, September 30, 2019, at p. 5, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=19578&DocType=PDF> (last visited Feb. 20, 2020).

<sup>4</sup> Section 120.65(1), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Section 440.45(1)(a), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> See *Sanders v. City of Orlando*, 997 So. 2d 1089, 1094 (Fla. 2008)

<sup>10</sup> Section 440.192, F.S.

<sup>11</sup> Section 440.25, F.S.

<sup>12</sup> Section 440.1926, F.S.

<sup>13</sup> Section 440.25(4), F.S.

<sup>14</sup> Section 440.271, F.S.

<sup>15</sup> DOAH, Agency Analysis of 2020 House Bill 1049, p.1 (Jan. 3, 2020).

<sup>16</sup> Chapter 2019-115, Laws of Fla.

<sup>17</sup> DOAH, *supra* note 18, at 1.

## Effect of the Bill

The bill provides that the salaries for judges of compensation claims will be equal to that of county court judges, with the exception of the Deputy Chief Judge of Compensation Claims, whose salary will be \$1,000 greater than the judges of compensation claims. The salaries of county court judges, which are currently \$151,822, are established in s. 8 of chapter 2019-115, L.O.F. As such, the bill increases the salaries for the judges of compensation claims to \$151,822, and the Deputy Chief Judge to \$152,822.

The bill provides a recurring appropriation of \$1,114,087 from the DOAH Operating Trust Fund, and associated salary rate of 870,392, to adjust the salaries of the Deputy Chief Judge and the judges of compensation claims. Funds expended from the DOAH Operating Trust Fund are from funds transferred from the DFS Workers' Compensation Administration Trust Fund pursuant to s. 440.50, F.S.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 440.45(2), F.S., adjusting the salary for the Deputy Chief Judge and judges of compensation claims.

**Section 2.** Provides an appropriation.

**Section 3.** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill provides a recurring appropriation of \$1,114,087 from the DOAH Operating Trust Fund and associated salary rate of 870,392, to adjust the salaries of the Deputy Chief Judge and the judges of compensation claims.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not confer rulemaking authority nor does it require the promulgation of rules.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 4, 2020, the Government Operations & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment specified that the salaries of the judges of compensation claims must be equal to that of county court judges, with the exception of the Deputy Chief Judge of Compensation Claims, whose salary will be \$1,000 greater than the judges of compensation claims. The amendment also provided an appropriation.

This analysis is drafted to the committee substitute as approved by the Government Operations & Technology Appropriations Subcommittee.