

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 1298

INTRODUCER: Senator Simmons

SUBJECT: Office of the Judges of Compensation Claims

DATE: February 26, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Davis/Betta</u>	<u>Betta</u>	<u>AEG</u>	<b>Recommend: Fav/CS</b>
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<b>Pre-meeting</b>

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## I. Summary:

SB 1298 appropriates \$1,159,440 in recurring funds from the Division of Administrative Hearing's Operating Trust Fund for the purpose of increasing the salaries of the judges of compensation claims. Until 1994, the law required the salaries of the judges of compensation claims to be equal to that of circuit court judges, who are now paid \$35,000 more per year than judges of compensations claims. Since 1994, the judges of compensation claims have received only those pay increases applied to all state employees.

Under the bill, the Deputy Chief Judge must recommend the salary increase, which, if approved, must be paid out of the Worker's Compensation Administration Trust Fund, into the Operating Trust Fund, and in turn used to pay for the salary increases.

The bill takes effect July 1, 2020.

## II. Present Situation:

### Overview

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.

### Judges of Compensation Claims

The judges of compensation claims have exclusive jurisdiction over workers' compensation cases.<sup>1</sup> When an employer disputes an employee's claim for workers' compensation, the employee may initiate litigation of the matter by filing a petition with the Office of the Judges of Compensation Claims (OJCC). Even after a petition is filed, a workers' compensation dispute

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<sup>1</sup> See *Sanders v. City of Orlando*, 997 So. 2d 1089, 1094 (Fla. 2008).

may be resolved through mediation<sup>2</sup> or arbitration.<sup>3</sup> But, when necessary, a judge of compensation claims may hold a hearing to resolve the matter.<sup>4</sup> Upon conclusion of the hearing, the judge's order may be appealed to the First District Court of Appeal, which has sole appellate jurisdiction.<sup>5</sup>

The OJCC is headed by the Deputy Chief Judge, who reports to the director and Chief Judge of the Division of Administrative Hearings.<sup>6</sup>

Judges of compensation claims are nominated by a statewide nominating commission and appointed by the Governor to a four-year term. The Governor may re-appoint a judge to successive four-year terms and may remove a judge for cause during any term.<sup>7</sup>

### **The Annual Salary of the Judges of Compensation Claims**

Judges of compensation claims are paid \$124,564.20 per year, except the Deputy Chief Judge, who is paid \$127,422.12 per year.<sup>8</sup>

These salaries are roughly equivalent to those of administrative law judges (ALJs), who preside at the Division of Administrative Hearings. The standard ALJ salary is \$123,070 per year, while Senior ALJs are paid \$124,320 per year and the Deputy Chief ALJ is paid \$125,820 per year.<sup>9</sup> The Chief Judge determines these salaries, except for his own, which is \$131,409.36, and was set by the Florida Cabinet upon his hiring.<sup>10</sup>

Until January 1, 1994, the salary of the judges of compensation claims was linked to the salary of Circuit Court judges, who are now paid \$160,688.04 annually.<sup>11</sup> But since 1994, the salary of judges of compensation claims has increased only when the Legislature has appropriated general state-employee salary increases. The salaries and other expenses of the OJCC are paid from the Workers' Compensation Administration Trust Fund.<sup>12</sup>

### **III. Effect of Proposed Changes:**

The bill appropriates \$1,159,440 in recurring funds from the Division of Administrative Hearing's Operating Trust Fund for the purpose of adjusting the salaries of the judges of compensation claims. Accordingly, the Deputy Chief Judge must recommend the adjustment,

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<sup>2</sup> See s. 440.25, F.S.

<sup>3</sup> See s. 440.1926, F.S.

<sup>4</sup> See s. 440.25(4), F.S.

<sup>5</sup> Section 440.271, F.S.

<sup>6</sup> The DOAH Chief Judge acts as the OJCC's "agency head for all purposes." Section 440.45(1)(a), F.S. DOAH and the OJCC exist within the Department of Management Services, but the department may not direct DOAH or the OJCC in any way. Instead the department must "provide administrative support and service to the office to the extent requested by the director of the Division of Administrative Hearings." Section 440.45(1)(a), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Div. of Admin. Hearings, *Analysis of House Bill 1049* (Jan. 3, 2020) (on file with the Senate Committee on Judiciary).

<sup>9</sup> Newly hired ALJs are paid \$121,320 for their first year, before being raised to the standard rate. Conversation with Cindy Ardoin, Budget Officer, Florida Division of Administrative Hearings (Jan. 14, 2020).

<sup>10</sup> *Id.*

<sup>11</sup> Ch. 2018-9, s. 8, Laws of Fla.

<sup>12</sup> Div. of Admin. Hearings, *Analysis of Senate Bill 780* (Feb. 11, 2019) (on file with the Senate Committee on Judiciary).

which, if approved, must be paid out of the Worker's Compensation Administration Trust Fund into the Operating Trust Fund, and in turn used to pay for the salary increases.

The bill takes effect July 1, 2020.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires a recurring appropriation of \$1,159,440 from the Operating Trust Fund of the Division of Administrative Hearings. The bill specifies that the salary adjustments provided in the bill are to be paid out of the Workers' Compensation Administration Trust Fund.

**VI. Technical Deficiencies:**

The bill does not specify to whom the Deputy Chief Judge shall recommend salary adjustments, or who, if anyone, would need to give final approval of the adjustments. The Legislature may wish to amend the bill accordingly.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 440.45 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.