

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1049 Appropriations for the Division of Administrative Hearings

**SPONSOR(S):** Stone

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N	Keith	Topp
2) Oversight, Transparency & Public Management Subcommittee			
3) Appropriations Committee			

### SUMMARY ANALYSIS

The Division of Administrative Hearings 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 the Division of Administrative Hearings (division) 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. The division also maintains a statewide mediation and adjudication system for the efficient and timely resolution of disputed workers' compensation claims.

The Adjudication of Disputes program within the division is headed by a division director who serves as the chief administrative law judge and is appointed by the Administration Commission, consisting of the Governor and Cabinet, and confirmed by the Florida Senate. The Deputy Chief Judge of Compensation Claims heads the Office of the Judges of Compensation Claims (OJCC) and reports to the division 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 Section 8 of the General Appropriations Act, and as of July 1, 2019, were set at \$160,688. The current annual salary of the judges of compensation claims are \$124,564.20, and the current annual salary of the Deputy Chief Judge of Compensation Claims is \$127,422.12.

Since the separation of linked salaries in 1994, salaries of judges of compensation claims has 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 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 Section 8 of chapter 2019-115, L.O.F.

The bill provides a recurring appropriation of \$1,114,087 from the Operating Trust Fund of the Division of Administrative Hearings, 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.

The bill has an effective date of July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

The mission of the Division of Administrative Hearings (division) 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. The division also maintains a statewide mediation and adjudication system for the efficient and timely resolution of disputed workers' compensation claims.<sup>1</sup> The division 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>

The Adjudication of Disputes program within the division is headed by a division director who serves as the chief administrative law judge and is appointed by the Administration Commission, consisting of the Governor and Cabinet, and confirmed by the Florida Senate.<sup>4</sup> The Deputy Chief Judge of Compensation Claims heads the Office of the Judges of Compensation Claims (OJCC) and reports to the division director.<sup>5</sup> The Deputy Chief Judge of Compensation Claims is appointed by the governor for a term of four years.<sup>6</sup>

The OJCC is a separate budget entity from the Adjudication of Disputes program.<sup>7</sup> The judges of compensation claims have exclusive jurisdiction over workers' compensation cases.<sup>8</sup> As soon as an employer disputes an employee's claim for workers' compensation, an employee may initiate litigation of the matter by filing with the OJCC. Even after a petition is filed, workers' compensation disputes may be resolved via mediation<sup>9</sup> or arbitration.<sup>10</sup> However, when necessary, judges of compensation claims may hold hearings to resolve the disputed matter.<sup>11</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>12</sup>

The current annual salary of the judges of compensation claims are \$124,564.20, and the current annual salary of the Deputy Chief Judge of Compensation Claims is \$127,422.12.<sup>13</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 Section 8 of the General Appropriations Act, and as of July 1, 2019, were set at \$160,688.<sup>14</sup> Since the separation of linked salaries in 1994, salaries of judges of compensation claims has 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>15</sup>

#### Effect of the Bill

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<sup>1</sup> Division of Administrative Hearings, Long Range Program Plan submitted September 30, 2019, at p. 3, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=19578&DocType=PDF>

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

<sup>3</sup> Long Range Program Plan, *Supra* note 1, at 6.

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

<sup>5</sup> Section 440.45, F.S.

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

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

<sup>8</sup> See *Sanders v. City of Orlando*, 997 So. 2d 1089, 1094 (Fla. 2008)

<sup>9</sup> Section 440.25, F.S.

<sup>10</sup> Section 440.1926, F.S.

<sup>11</sup> Section 440.25(4), F.S.

<sup>12</sup> Section 440.271, F.S.

<sup>13</sup> Florida Division of Administrative Hearings, Agency Analysis of 2020 House Bill 1049, p.1 (Jan. 3, 2020).

<sup>14</sup> Ch. 2019-115, Laws of Fla.

<sup>15</sup> FL DOAH, *supra* note 13, at 1.

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 Section 8 of chapter 2019-115, L.O.F. The bill will establish the salaries for the judges of compensation claims equal to \$151,822, and the Deputy Chief Judge to \$152,822.

The bill provides a recurring appropriation of \$1,114,087 from the Operating Trust Fund of the Division of Administrative Hearings, 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 Operating Trust Fund of the Division of Administrative Hearings, 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 and Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment specified that the salaries for the judges of compensation claims shall 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 and Technology Appropriations Subcommittee.