

PUBLIC CHAPTER NO. 1087

HOUSE BILL NO. 2456

By Representative Lynn

Substituted for: Senate Bill No. 2471

By Senators Watson, Johnson

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 50, Chapter 6, relative to the advisory council on workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-230(a), is amended by deleting subdivision (2) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-233(a), is amended by adding the following language as a new subdivision thereto:

() Advisory council on workers' compensation, created by § 50-6-121;

SECTION 3. Tennessee Code Annotated, Section 50-6-121, is amended by deleting the section in its entirety and by substituting instead the following:

Section 50-6-121.

(a)

(1) There is created an advisory council on workers' compensation. There shall be seven (7) voting members of the council, with three (3) representing employers, three (3) representing employees, and one (1) member who shall serve as the chair and who shall be the state treasurer or the state treasurer's designee. There shall be ten (10) nonvoting members of the council. All members shall have a demonstrable working knowledge of the workers' compensation system.

(A) The chair shall preside at meetings of the council and, in consultation with the voting members of the council, shall supervise the work of the staff of the council. The council shall meet at the call of the chair or at the written call of four (4) voting members of the council which written call shall be delivered to the chair. The chair may vote only on matters related to the administration of the council or the council's research. The chair is not permitted to vote on any matter that constitutes the making of a

policy recommendation to the governor or to the general assembly.

(B) The speaker of the house of representatives, the speaker of the senate and the governor shall each appoint one (1) employer and one (1) employee representative to the council, who shall be voting members. Representatives, officers and employees from labor organizations or business trade organizations are eligible for appointment. In making the appointments of the employer representatives, the appointing authorities shall strive to ensure a balance of a commercially insured employer, self-insured employer or an employer who operates a small business. At least one (1) employee representative shall be from organized labor. Proxy voting is prohibited by voting members of the council; provided, however, that in instances where a voting member will be absent from a vote of the council, the member's appointing authority is authorized to appoint an alternate or designee for the vote or votes.

(C) Voting members shall serve four-year terms and the terms shall be staggered so that the terms of only three (3) voting members shall terminate at the same time. The terms of the voting members who are serving as of June 30, 2003, shall be amended as follows: those members whose terms are scheduled to expire in 2004 shall expire on June 30, 2004, and the successors shall serve a four-year term to begin on July 1, 2004, and to end on June 30, 2008, and those members whose terms are scheduled to expire in 2006 shall expire on June 30, 2006, and the successors shall serve a four-year term to begin on July 1, 2006, and to expire on June 30, 2010. Thereafter, all four-year terms shall begin on July 1 and terminate on June 30, four (4) years thereafter.

(D) The governor shall also appoint ten (10) nonvoting members of the council as follows: one (1) to represent local governments, one (1) to represent insurance companies, five (5) to represent health care providers and three (3) attorneys. The nonvoting local government representative may be appointed from a list of three (3) names submitted jointly by the Tennessee Municipal League and the Tennessee County Services Association. The Tennessee Municipal League and the Tennessee County Services Association may alternate recommendations between municipal and county representatives. The nonvoting insurance company representative may be appointed from either a list of three (3) names submitted by the Alliance of American Insurers or a list of three (3) names submitted by the American

Insurance Association. One (1) nonvoting health care provider representative may be appointed from a list of three (3) names submitted by the Tennessee Medical Association and one (1) nonvoting healthcare provider representative may be appointed from a list of three (3) names submitted by the Tennessee Hospital Association. One (1) nonvoting health care provider representative shall be a chiropractor who is licensed in this state, one (1) nonvoting health care provider representative shall be a physical therapist who is licensed in this state, and one (1) nonvoting health care provider representative shall be an occupational therapist who is licensed in this state, and these members shall not receive reimbursement for travel expenses. The nonvoting attorney members shall be appointed as follows: one (1) who shall primarily represent injured workers' compensation claimants, who may be from a list of three (3) names submitted by the Tennessee Association for Justice; one (1) who shall primarily represent employers or workers' compensation insurers, who may be from a list of three (3) names submitted by the Tennessee Defense Lawyers Association; and one (1) who may be from a list of three (3) names submitted by the Tennessee Bar Association.

(E) The nonvoting members shall be appointed to four-year terms that shall begin on July 1 and terminate on June 30, four (4) years thereafter.

(F) The chair and vice-chair of the special joint committee on workers' compensation, the commissioner of labor and workforce development and the commissioner of commerce and insurance, or their designees, shall be ex officio, nonvoting members of the council.

(2) Each voting and nonvoting member of the advisory council on workers' compensation shall, upon the expiration of the member's term, be eligible for reappointment and shall serve until a successor is appointed. In the event a member resigns or becomes ineligible for service during the member's term, a successor shall be appointed by the appropriate appointing authority to serve the remainder of the term.

(3) No employer shall discriminate in any manner against an employee who serves on the advisory council because of the employee's service. Employees who serve on the advisory council shall not be denied any benefit from their employer because of the employee's service. Travel expenses of the employee representatives on the council shall be reimbursed pursuant to subsection (b); however, employers may choose to pay the travel expenses of their employees' service on the advisory council according to their own policies.

(b)

(1) Notwithstanding the provisions of § 3-6-304 or any other law to the contrary, and in addition to all other requirements for membership on the council:

(A) Any person registered as a lobbyist pursuant to the registration requirements of title 3, chapter 6 who is subsequently appointed or otherwise named as a member of the council shall terminate all employment and business association as a lobbyist with any entity whose business endeavors or professional activities are regulated by the council, prior to serving as a member of the council. The provisions of this subdivision (1)(A) shall apply to all persons appointed or otherwise named to the council after July 1, 2010;

(B) No person who is a member of the council shall be permitted to register or otherwise serve as a lobbyist pursuant to title 3, chapter 6 for any entity whose business endeavors or professional activities are regulated by the council during such person's period of service as a member of the council. The provisions of this subdivision (1)(B) shall apply to all persons appointed or otherwise named to the council after July 1, 2010, and to all persons serving on the council on such date who are not registered as lobbyists; and

(C) No person who serves as a member of the council shall be employed as a lobbyist by any entity whose business endeavors or professional activities are regulated by the council for one (1) year following the date such person's service on the council ends. The provisions of this subdivision (1)(C) shall apply to persons serving on the council as of July 1, 2010 and to persons appointed to the council subsequent to such date.

(2) A person who violates the provisions of this subsection shall be subject to the penalties prescribed in title 3, chapter 6.

(3) The bureau of ethics and campaign finance is authorized to promulgate rules and regulations to effectuate the purposes of this subsection. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and in accordance with the procedure for initiating and proposing rules by the ethics commission to the bureau of ethics and campaign finance as prescribed in § 4-55-103.

(c) In addition to all other requirements for membership on the council, all persons appointed or otherwise named to serve as members of the council after July 1, 2010, shall be residents of this state.

(d) Members of the council shall not be paid but may be reimbursed for travel expenses. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) The council shall meet at least twice each year. It shall annually review workers' compensation in the state and shall issue a report of its findings and conclusions on or before July 1 of each year. The annual report shall be sent to the governor, the speakers of the house of representatives and the senate, the chair and vice-chair of the special joint committee on workers' compensation, the commissioner of labor and workforce development, the commissioner of commerce and insurance and the clerks of the house of representatives and senate. Notice of the publication of the annual report and all other reports published by the council shall be provided to all members of the general assembly pursuant to § 3-1-114.

(f) In performing its responsibilities, the council's role shall be strictly advisory, but it may:

(1) Make recommendations to the governor, the general assembly, the special joint committee on workers' compensation, the standing committees of each house that review the status of the workers' compensation system, the commissioner of labor and workforce development and the commissioner of commerce and insurance relating to the promulgation or adoption of legislation or rules;

(2) Make recommendations to the commissioner of labor and workforce development and the commissioner of commerce and insurance regarding the method and form of statistical data collections; and

(3) Monitor the performance of the workers' compensation system in the implementation of legislative directives.

(g) The chair, in consultation with the voting members of the council, is authorized to retain staff and professional assistance, such as consultants and actuaries, as the chairman shall deem necessary for the work of the council, subject to budgetary approval in the general appropriations act. For administrative purposes, the council shall be attached to the department of treasury for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit and other related items. The state treasurer shall have administrative and supervisory control over the staff assigned to assist the council. Employees of the council shall not have the status of career service

employees pursuant to title 8. The autonomy of the council and its authority are not affected by this subsection.

(h) The council may develop evaluations, statistical reports and other information from which the general assembly may evaluate the impact of the legislative changes to workers' compensation law, including, but not limited to, the Reform Act of 2004 and subsequent statutory changes to the Workers' Compensation Law.

(i) The advisory council shall issue an annual report that includes a summary of significant supreme court decisions relating to workers' compensation, including an explanation of their impact on existing policy. The report shall be due on or before January 15 of each year and shall include, to the extent possible, the decisions that were issued during the preceding calendar year. This annual report shall be sent to the governor, the speaker of the house of representatives, the speaker of the senate, the chair of the consumer and employee affairs committee of the house of representatives, the chair of the commerce, labor and agriculture committee of the senate, and the chair and co-chair of the special joint committee on workers' compensation. Notice of the publication of the report shall be provided to all members of the general assembly pursuant to § 3-1-114.

(j) The advisory council on workers' compensation shall, within ten (10) business days of each meeting it conducts, provide a summary of the meeting and a report of all actions taken and all actions recommended to be taken to each member of the consumer and employee affairs committee of the house of representatives and commerce, labor and agriculture committee of the senate.

(k) Whenever any bill is introduced in the general assembly proposing to amend this chapter or to make any change in workers' compensation law, or to make any change in the law that may have a financial or other substantive impact on the administration of workers' compensation law, the standing committee to which the bill is referred may refer the bill to the council. The council's review of bills relating to workers' compensation should include, but not be limited to, bills that propose to amend chapters 3, 6, 7, and 9 of this title, and title 56, chapters 5 and 47. All bills referred to the council shall be reported back to the standing committee to which they were assigned as quickly as reasonably possible. Notwithstanding the absence of a report from the council, the standing committee is free to consider the bill at any time. The chair making the referral shall immediately notify the prime sponsors of the referral and the council shall not review and comment on the proposed legislation until the prime sponsors have been notified. The comments of the council shall describe the potential effects of the proposed legislation on the workers' compensation system and its operations and any other information or suggestions that the council may think helpful to the sponsors, the standing committees or the general assembly. The comments of the council may include recommendations for or against passage of the proposed legislation. Other than reporting

the recommendations for or against passage of proposed legislation and responding to any questions that the legislators may have, no staff of the advisory council shall lobby or advocate for or against passage of proposed legislation.

(f) The council shall study and report on the occupational health and safety of employment in Tennessee and make recommendations for safe employment education and training and promote the development of employer-sponsored health and safety programs.

SECTION 4. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: June 9, 2010


KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 23rd day of June 2010


PHIL BREDESEN, GOVERNOR