

**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:** PCS/SB 1298 (595712)

**INTRODUCER:** Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government) and 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>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 1298 requires judges of compensation claims to be paid “a salary equal to that of a county court judge,” which is currently \$27,258 higher than the salary of a judge of compensation claims. The bill sets the salary of the Deputy Chief Judge of Compensation Claims at \$1,000 more than that of a county court judge. County court judges are currently paid \$151,822 per year.

The proposed committee substitute appropriates \$1,114,078 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.

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 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

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

<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.

state-employee salary increases. The salaries and other expenses of the OJCC are paid from the Workers' Compensation Administration Trust Fund.<sup>12</sup>

### **Workers' Compensation Administration Trust Fund**

Section 440.50, F.S., creates the Workers' Compensation Administration Trust Fund. The revenue sources for this fund are fees, licenses and taxes as provided by ch. 440, F.S., including an assessment paid by carriers writing workers' compensation insurance in the state and selfinsurers. This fund pays for expenses related to the administration of ch. 440, F.S., including the salaries of judges of compensation claims. The fund is administered by the Division of Workers' Compensation within the Department of Financial Services.

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

The bill requires judges of compensation claims to be paid "a salary equal to that of a county court judge," which is currently \$27,527.80 higher than the salary of a judge of compensation claims. The bill sets the salary of the Deputy Chief Judge of Compensation Claims at \$1,000 more than that of a county court judge. County court judges are currently paid \$151,822 per year.

The bill appropriates \$1,114,078 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.

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.

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

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 \$1,114,078 from the Operating Trust Fund of the Division of Administrative Hearings. The revenue to support the Office of Judges of Compensation Claims comes from the Workers' Compensation Administration Trust Fund within the Department of Financial Services.

VI. **Technical Deficiencies:**

None

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.)

**Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 13, 2020:**

The committee substitute adds the provision requiring that the salary of a judge of compensation claims is equal to that of a county court judge and sets the salary of the deputy chief judge at \$1,000 above that of a judge of compensation claims.

B. Amendments:

None.