

Regular Session, 2014

SENATE BILL NO. 227

BY SENATOR MURRAY

WORKERS' COMPENSATION. Removes the authority of the office of workers' compensation to adjudicate workers' compensation claims and provides that the district courts have original jurisdiction of workers' compensation claims. (1/1/15)

1 AN ACT

2 To amend and reenact R.S. 23:1102(A)(2), 1103(A)(3), 1121(B)(1), 1141(A), 1143(A) and

3 (B)(1), 1171(B), 1171.1(C)(1), the introductory paragraph of (C)(2), and (4), and

4 (D)(1), 1201(F)(1), 1201.1(I)(2), (J)(1), (3), and (4), and (K)(1) through (4), (6), the

5 introductory paragraph of (8)(a), and (8)(b), (c), and (d), 1201.3(A) through (C),

6 1201.4(A), 1208(D) and (E), 1226(B)(3)(a), (D), and (E), 1272(A) through (D),

7 1274, 1293(A)(1) and (B)(1), 1310, 1310.2(A), 1310.15, 1314(B) and (C), 1316,

8 1317, 1317.1(E) and (F) and 1361(E), and to repeal R.S. 23:1310.1, 1310.2(B) and

9 (C), 1310.3, 1310.4, 1310.5, 1310.6, 1310.7, 1310.8, 1310.9, 1310.10, 1310.11,

10 1310.13, 1311, relative to the office of workers' compensation; to provide that

11 district courts have original jurisdiction regarding workers' compensation claims; to

12 repeal provisions providing for the office of workers' compensation to adjudicate

13 workers' compensation claims; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 23:1102(A)(2), 1103(A)(3), 1121(B)(1), 1141(A), 1143(A) and

16 (B)(1), 1171(B), 1171.1(C)(1), the introductory paragraph of (C)(2), and (4), and(D)(1),

17 1201(F)(1), 1201.1(I)(2), (J)(1), (3), and (4), and (K)(1) through (4), (6), the introductory

1 paragraph of (8)(a), and (8)(b), (c), and (d), 1201.3(A) through (C), 1201.4(A), 1208(D) and  
2 (E), 1226 (B)(3)(a), (D), and (E), 1272(A) through (D), 1274, 1293(A)(1) and (B)(1), 1310,  
3 1310.2(A), 1310.15, 1314(B) and (C), 1316, 1317, 1317.1(E) and (F) and 1361(E) are hereby  
4 amended and reenacted to read as follows:

5 §1102. Employee or employer suits against third persons causing injury; notice of  
6 filing

7 A. \* \* \*

8 (2) Any dispute between the employer and the employee regarding the  
9 calculation of the employer's credit may be filed with the office of workers'  
10 compensation and tried before a ~~workers' compensation~~ **district court** judge.  
11 However, any determination of the employer's credit shall not affect any rights  
12 granted to the employer or the employee pursuant to R.S. 23:1103(C).

13 \* \* \*

14 §1103. Damages; apportionment of between employer and employee in suits  
15 against third persons; compromise of claims; credit

16 A. \* \* \*

17 (3) Any dispute between the employer and the employee regarding the  
18 calculation of the employer's credit may be filed with the ~~office of workers'~~  
19 ~~compensation~~ **district court** and tried before a ~~workers' compensation~~ **district court**  
20 judge. If a third party action has been filed in a district court, such dispute shall be  
21 filed in the district court and tried before a district judge unless the parties agree  
22 otherwise. However, any determination of the employer's credit shall not affect any  
23 rights granted to the employer or the employee pursuant to R.S. 23:1103(C).

24 \* \* \*

25 §1121. Examination of injured employee

26 \* \* \*

27 B.(1) The employee shall have the right to select one treating physician in  
28 any field or specialty. The employee shall have a right to an expedited summary  
29 proceeding pursuant to R.S. 23:1201.1(K)(8), when denied his right to an initial

1 physician of choice. The ~~workers' compensation~~ **district court** judge shall set the  
 2 hearing date for the matter within three days of receiving the employee's motion for  
 3 the expedited hearing. The hearing shall be held not less than ten nor more than  
 4 thirty days after the employee or his attorney files the motion for an expedited  
 5 hearing. The ~~workers' compensation~~ **district court** judge shall provide notice of the  
 6 hearing date to the employer and insurer at the same time and in the same manner  
 7 that notice of the hearing date is provided to the employee or his attorney. For the  
 8 purposes of this Section, an employee shall not be required to submit the dispute on  
 9 the choice of physician to mediation nor go through a pretrial conference before  
 10 obtaining a hearing. The hearing shall be conducted as a rule to show cause. The  
 11 ~~workers' compensation~~ **district court** judge shall order the employer or payor to  
 12 authorize the claimant's choice of physician unless the employer or payor can show  
 13 good cause for his refusal. After his initial choice the employee shall obtain prior  
 14 consent from the employer or his workers' compensation carrier for a change of  
 15 treating physician within that same field or specialty. The employee, however, is not  
 16 required to obtain approval for change to a treating physician in another field or  
 17 specialty.

18 \* \* \*

19 §1141. Attorney fees; privilege on compensation awards

20 A. Claims of attorneys for legal services arising under this Chapter shall not  
 21 be enforceable unless reviewed and approved by a ~~workers' compensation~~ **district**  
 22 **court** judge. If so approved, such claims shall have a privilege upon the  
 23 compensation payable or awarded, but shall be paid therefrom only in the manner  
 24 fixed by the ~~workers' compensation~~ **district court** judge. No privilege shall exist or  
 25 be approved by a ~~workers' compensation~~ **district court** judge on injury benefits as  
 26 provided in R.S. 23:1221(4)(s).

27 \* \* \*

28 §1143. Excessive fees or solicitation of employment; penalty; withholding attorney  
 29 fees; approval by ~~workers' compensation~~ **district court** judge

1 A. Whoever exacts or receives a fee or gratuity for any services rendered on  
 2 behalf of a claimant for compensation, except in the amount determined by the  
 3 ~~workers' compensation~~ **district court** judge, or solicits the business of appearing  
 4 before the office on behalf of a claimant, or makes it a business to solicit  
 5 employment for an attorney in connection with any claim for compensation under  
 6 this Chapter, shall be fined not more than five hundred dollars or imprisoned for not  
 7 more than twelve months, or both.

8 B.(1) An attorney may withhold, as proposed attorney fees, a sum not to  
 9 exceed twenty percent of all amounts recovered in his trust account which funds  
 10 shall remain the property of the claimant, pending approval of such fees by the  
 11 ~~workers' compensation~~ **district court** judge.

12 \* \* \*

13 §1171. Civil fine; hearing; appeal

14 \* \* \*

15 B. An employer may appeal the decision of the financial and compliance  
 16 officer to the ~~workers' compensation~~ **district court** judge in the district in which the  
 17 business of the employer is located or East Baton Rouge Parish by filing, within  
 18 thirty days of the date of assessment, a written request for a formal hearing, which  
 19 request should be filed on a disputed claim form. All appeals to the ~~workers'~~  
 20 ~~compensation~~ **district court** judge shall be de novo. A final order from a hearing  
 21 may be appealed to the appropriate court of appeal.

22 \* \* \*

23 §1171.1. Discontinuance of business; injunction; procedure

24 \* \* \*

25 C.(1) If at such hearing, it is determined that the employer is in violation of  
 26 his obligation under R.S. 23:1168, the ~~workers' compensation~~ **district court** judge  
 27 may fine the employer in the manner provided pursuant to R.S. 23:1170(A) and shall  
 28 order the employer to secure workers' compensation insurance and file evidence of  
 29 coverage within ninety days of the order. Should the employer fail to file such

1 evidence, the ~~workers' compensation~~ **district court** judge shall issue a cease and  
2 desist order prohibiting the employer from continuing its business operations until  
3 such time as the employer complies with R.S. 23:1168, and all fines issued are paid  
4 in full.

5 (2) Any cease and desist order issued by the ~~workers' compensation~~ **district**  
6 **court** judge under Paragraph C(1) of this Subsection shall include specific findings  
7 of fact based upon evidence of all of the following:

8 \* \* \*

9 (4) A cease and desist order shall not issue prior to a hearing and there shall  
10 be no interruption of an employer's business operation if he submits satisfactory  
11 proof to the ~~workers' compensation~~ **district court** judge of his compliance with R.S.  
12 23:1168, regardless of whether he may have been in violation thereof previously.

13 D.(1) After the issuance of a cease and desist order and upon the request of  
14 the director, the attorney general shall immediately institute proceedings for  
15 injunctive relief against the employer in the district court of any judicial district in  
16 this state where the employer does business. In such district court proceedings, a  
17 certified copy of any cease and desist order entered by the ~~workers' compensation~~  
18 **district court** judge in accordance with this Section based upon evidence in the  
19 record shall be prima facie evidence of the facts found in such record.

20 \* \* \*

21 §1201. Time and place of payment; failure to pay timely; failure to authorize;  
22 penalties and attorney fees

23 \* \* \*

24 F. \* \* \*

25 (1) Such penalty and attorney fees shall be assessed against either the  
26 employer or the insurer, depending upon fault. No workers' compensation insurance  
27 policy shall provide that these sums shall be paid by the insurer if the ~~workers'~~  
28 ~~compensation~~ **district court** judge determines that the penalty and attorney fees are  
29 to be paid by the employer rather than the insurer.

\* \* \*

§1201.1. Controversion of compensation and medical benefits

\* \* \*

I.

\* \* \*

(2) If disputed by the parties, upon a rule to show cause held prior to the preliminary determination or any hearing held pursuant to this Section, the ~~workers' compensation~~ **district court** judge shall determine whether the employer is in compliance.

J.(1) Upon the filing of the request for a preliminary determination hearing, the ~~workers' compensation~~ **district court** judge shall initiate a telephone status conference with the parties to schedule the discovery deadlines and to facilitate the exchange of documents. The scope of the discovery will be limited to the issues raised in the disputed payment, suspension, modification, termination, or controversion of benefits. The preliminary determination hearing shall be a contradictory hearing at which all parties shall have the opportunity to introduce evidence.

\* \* \*

(3) The preliminary determination hearing shall be held no later than ninety days from the scheduling conference. However, upon a showing of good cause, one extension of an additional thirty days is permitted upon approval by the ~~workers' compensation~~ **district court** judge. The ~~workers' compensation~~ **district court** judge shall issue a preliminary determination no later than thirty days after the hearing.

(4) Any employer or payor requesting a preliminary determination hearing shall produce all documentation relied on by the employer or payor in calculating, modifying, suspending, terminating, or controverting the employee's benefits. These documents shall be disclosed to the employee or the employee's representative within ten days of the request for the preliminary determination hearing.

K.(1) The employer or payor shall, within ten calendar days of the mailing of the determination from the ~~workers' compensation~~ **district court** judge, do either

1 of the following:

2 (a) Accept and comply with preliminary determination of the ~~workers'~~  
3 ~~compensation~~ **district court** judge regarding the payment, suspension, modification,  
4 termination, or controversion of benefits and mail a revised "Notice of Modification,  
5 Suspension, Termination, or Controversion of Compensation and/or Medical  
6 Benefits" to the injured employee or employee's representative, along with any  
7 payment amount determined, and any arrearage due.

8 (b) Notify the injured employee or his representative in writing that the  
9 employer or payor does not accept the determination.

10 (2) Any employer or payor who accepts and complies with the ~~workers'~~  
11 ~~compensation~~ **district court** judge's determination within ten calendar days, shall not  
12 be subject to any penalty or attorney fees arising out of the original notice which was  
13 the subject of the preliminary hearing.

14 (3) Any employer or payor who accepts and complies with the ~~workers'~~  
15 ~~compensation~~ **district court** judge's determination, but who disagrees with such  
16 preliminary determination, shall notify the court within ten days of receipt of the  
17 preliminary determination of his desire to proceed to a trial on the merits of the  
18 matters that were the subject of the preliminary hearing.

19 (4) Any employer or payor who does not accept the ~~workers' compensation~~  
20 **district court** judge's determination or fails to comply with the determination within  
21 ten calendar days, may, at the trial on the merits, be subject to penalties and attorney  
22 fees pursuant to R.S. 23:1201, arising out of the issues raised in the original notice  
23 of payment, modification, suspension, termination, or controversion of benefits,  
24 which was the subject of the preliminary hearing.

25 \* \* \*

26 (6) Any employer or payor who accepts and complies with the determination  
27 of the ~~workers' compensation~~ **district court** judge, and who does not request to  
28 proceed to trial on the merits of the matters that were the subject of the preliminary  
29 hearing, shall retain the right to further controvert future matters. The ~~workers'~~

1         ~~compensation~~ **district court** judge's determination shall not be considered an order  
2         concerning benefits due requiring modification, nor shall the determination be  
3         considered res judicata of any matters which were the subject of the preliminary  
4         hearing. The acceptance of the preliminary determination by the employer or payor  
5         shall not be considered an admission.

6                                   \*       \*       \*

7                 (8)(a) Upon motion of either party, whether or not the employer or payor is  
8         entitled to a preliminary determination, the ~~workers' compensation~~ **district court**  
9         judge's ruling in a hearing shall be conducted as an expedited summary proceeding  
10         and shall be considered an order of the court and not requiring a further trial on the  
11         merits, if it concerns any of the following matters:

12                                   \*       \*       \*

13                 (b)(i) The ~~workers' compensation~~ **district court** judge shall set the expedited  
14         summary proceeding hearing date pursuant to Items (a)(iii), (iv), and (v) of this  
15         Paragraph within three days of receiving the employer's motion for the expedited  
16         hearing. The hearing shall be held not less than ten nor more than thirty days after  
17         the motion has been filed.

18                 (ii) The ~~workers' compensation~~ **district court** judge shall provide the notice  
19         of the hearing date to the employee or his attorney at the same time and in the same  
20         manner that the notice of the hearing date is provided to the employer or payor.

21                 (iii) For the purposes of this Section, the party seeking an expedited hearing  
22         shall not be required to submit the dispute to mediation or go through a pretrial  
23         conference before obtaining a hearing. The hearing shall be conducted as a rule to  
24         show cause.

25                 (c) The ~~workers' compensation~~ **district court** judge shall order the employee  
26         to sign the choice of physician form, enforce the employee's submission to the  
27         medical examination, or provide the LWC-1020 or LWC-1025 form as applicable  
28         unless the employee can show good cause for his refusal.

29                 (d) If the employee seeking relief pursuant to this Paragraph can show good



1 cause for his refusal, the ~~workers' compensation~~ **district court** judge shall order the  
2 suspension or reduction in benefits lifted and the payment of any arrearage due. If  
3 the employee fails to show good cause for refusal, the ~~workers' compensation~~  
4 **district court** judge shall order the suspension or reduction in benefits to continue  
5 until the employee complies.

6 \* \* \*

7 §1201.3. Failure to pay compensation; judgment and execution; interest; revocation  
8 or suspension of insurer's license

9 A. If payment of compensation or an installment payment of compensation  
10 due under the terms of an award, except in case of appeals from an award, is not  
11 made within ten days after the same is due by the employer or insurance carrier  
12 liable therefor, the ~~workers' compensation~~ **district court** judge may order a certified  
13 copy of the award to be filed in the office of the clerk of court of any parish, which  
14 award whether accumulative or lump sum, when recorded in the mortgage records,  
15 shall be a judicial mortgage as provided in Civil Code Article 3299. Any  
16 compensation awarded and all payments thereof directed to be made by order of the  
17 ~~workers' compensation~~ **district court** judge shall bear judicial interest from the date  
18 compensation was due until the date of satisfaction. The interest rate shall be fixed  
19 at the rate in effect on the date the claim for benefits was filed with the office of  
20 workers' compensation administration.

21 B. Upon the filing of the certified copy of the ~~workers' compensation~~ **district**  
22 **court** judge's award a writ of execution shall issue and process shall be executed and  
23 the cost thereof taxed, as in the case of writs of execution, on judgments of courts of  
24 record, as provided by the Louisiana Code of Civil Procedure.

25 C. If any insurance carrier intentionally, knowingly, or willfully violates any  
26 of the provisions of the Worker's Compensation Act, the insurance commissioner,  
27 on the request of a ~~workers' compensation~~ **district court** judge or the director, shall  
28 suspend or revoke the license or authority of such insurance carrier to do  
29 compensation business in this state.

\* \* \*

§1201.4. Forfeiture of benefits while incarcerated; exclusions; medical expenses

A. Except as provided in Subsection B of this Section, the employee's right to compensation benefits, including medical expenses, is forfeited during any period of incarceration, unless a ~~workers' compensation~~ **district court** judge finds that an employee has dependents who rely on a compensation award for their support, in which case said compensation shall be made payable and transmitted to the legal guardian of the minor dependent or other person designated by the ~~workers' compensation~~ **district court** judge and such payments shall be considered as having been made to the employee. After release from incarceration, the employee's right to claim compensation benefits shall resume. An employee who is incarcerated but is later found to be not guilty of felony criminal charges or against whom all felony charges have been dismissed by the prosecutor shall have the prescriptive period for filing a claim for benefits under this Chapter extended by the number of days he was incarcerated.

\* \* \*

§1208. Misrepresentations concerning benefit payments; penalty

\* \* \*

D. In addition to the criminal penalties provided for in Subsection C of this Section, any person violating the provisions of this Section may be assessed civil penalties by the ~~workers' compensation~~ **district court** judge of not less than five hundred dollars nor more than five thousand dollars payable to the Kids Chance Scholarship Fund, Louisiana Bar Foundation, and may be ordered to make restitution. Restitution may only be ordered for benefits claimed or payments obtained through fraud and only up to the time the employer became aware of the fraudulent conduct.

E. Any employee violating this Section shall, upon determination by ~~workers' compensation~~ **district court** judge, forfeit any right to compensation benefits under this Chapter.

\* \* \*

§1226. Rehabilitation of injured employees

B. \* \* \*

(3)(a) The employer shall be responsible for the selection of a licensed professional vocational rehabilitation counselor to evaluate and assist the employee in his job placement or vocational training. Should the employer refuse to provide these services, or a dispute arises concerning the work of the vocational counselor, the employee may file a claim with the office to review the need for such services or the quality of services being provided. The employee shall have a right to an expedited summary proceeding pursuant to R.S. 23:1201.1(K)(8). The ~~workers' compensation~~ **district court** judge shall set a hearing date within three days of receiving the motion. The hearing shall be held not less than ten, nor more than thirty days, after the employer or payor receives notice, delivered by certified or registered mail, of the employee's motion. The ~~workers' compensation~~ **district court** judge shall provide notice of the hearing date to the employer and payor at the same time and in the same manner that notice of the hearing date is provided to the employee or his attorney. For the purposes of this Section, an employee shall not be required to submit the dispute on the issue of vocational services to mediation or go through a pretrial conference before obtaining a hearing. The hearing shall be conducted as a rule to show cause.

\* \* \*

D. Prior to the ~~workers' compensation~~ **district court** judge adjudicating an injured employee to be permanently and totally disabled, the ~~workers' compensation~~ **district court** judge shall determine whether there is reasonable probability that, with appropriate training or education, the injured employee may be rehabilitated to the extent that such employee can achieve suitable gainful employment and whether it is in the best interest of such individual to undertake such training or education.

E. When it appears that a retraining program is necessary and desirable to restore the injured employee to suitable gainful employment, the employee shall be

1 entitled to a reasonable and proper retraining program for a period not to exceed  
2 twenty-six weeks, which period may be extended for an additional period not to  
3 exceed twenty-six additional weeks if such extended period is determined to be  
4 necessary and proper by the ~~workers' compensation~~ **district court** judge. However,  
5 no employer or insurer shall be precluded from continuing such retraining beyond  
6 such period on a voluntary basis. An injured employee must request and begin  
7 retraining within two years from the date of the termination of temporary total  
8 disability as determined by the treating physician. If a retraining program requires  
9 residence at or near the facility or institution and away from the employee's  
10 customary residence, reasonable cost of board, lodging, or travel shall be borne by  
11 the employer or insurer. A retraining program shall be performed at facilities within  
12 the state when such facilities are available.

13 \* \* \*

14 §1272. Approval of lump sum or compromise settlements by the ~~workers'~~  
15 ~~compensation~~ **district court** judge

16 A. A lump sum or compromise settlement entered into by the parties under  
17 R.S. 23:1271 shall be presented to the ~~workers' compensation~~ **district court** judge  
18 for approval through a petition signed by all parties and verified by the employee or  
19 his dependent, or by recitation of the terms of the settlement and acknowledgment  
20 by the parties in open court which is capable of being transcribed from the record of  
21 the proceeding.

22 B. When the employee or his dependent is represented by counsel, and if  
23 attached to the petition presented to the ~~workers' compensation~~ **district court** judge  
24 are affidavits of the employee or his dependent and of his counsel certifying each one  
25 of the following items: (1) the attorney has explained the rights of the employee or  
26 dependent and the consequences of the settlement to him; and, (2) that such  
27 employee or dependent understands his rights and the consequences of entering into  
28 the settlement, then the ~~workers' compensation~~ **district court** judge shall approve the  
29 settlement by order, and the order shall not thereafter be set aside or modified except

1 for fraud or misrepresentation made by any party.

2 C. When the employee or his dependent is not represented by counsel, the  
3 ~~workers' compensation~~ **district court** judge shall determine whether the employee  
4 or his dependent understands the terms and conditions of the proposed settlement,  
5 and shall approve it by order, unless he finds that it does not provide substantial  
6 justice to all parties, and the order shall not thereafter be set aside or modified except  
7 for fraud or misrepresentation made by any party.

8 D. If a suit has been filed against a third party pursuant to the provisions of  
9 R.S. 23:1101, the district court hearing the third-party suit shall, in addition to a  
10 ~~workers' compensation~~ **district court** judge, have the authority to approve a lump  
11 sum or compromise settlement of the workers' compensation claim under the same  
12 conditions and terms set forth in this Section for approval of such settlements by a  
13 ~~workers' compensation~~ **district court** judge, and such authority shall include  
14 approval and establishment of the credit due the employer. The fees of the attorney  
15 representing the employee in the workers' compensation matter shall be approved by  
16 the district court judge.

17 \* \* \*

18 §1274. Lump sum settlements; necessity for approval

19 A. The amounts payable as compensation may be commuted to a lump sum  
20 settlement by agreement if approved by the ~~workers' compensation~~ **district court**  
21 judge as provided in this Part. In a lump sum settlement, the payments due the  
22 employee or his dependents shall not be discounted at a greater rate than eight  
23 percent per annum.

24 B. If the lump sum settlement is made without the approval of the ~~workers'~~  
25 ~~compensation~~ **district court** judge, or at a discount greater than eight percent per  
26 annum, even if approved by the director or the ~~workers' compensation~~ **district court**  
27 judge, the employer shall be liable for compensation at one and one-half times the  
28 rate fixed by this Chapter. At any time within two years after date of the payment  
29 of the lump sum settlement and notwithstanding any other provision of this Chapter,

1 the claimant shall be entitled to demand and receive in a lump sum from the  
2 employer such additional payment as together with the amount already paid, will  
3 aggregate one and one-half times the compensation which would have been due but  
4 for such lump sum settlement.

5 C. Upon payment of a lump sum settlement commuted on a term agreed  
6 upon by the parties, approved by the ~~workers' compensation~~ **district court** judge,  
7 and discounted at not more than eight percent per annum, the liability of the  
8 employer or his insurer making the payment shall be fully satisfied.

9 D. For the settlement of compensation claims as provided in R.S. 23:1231  
10 through 1236 the following procedure shall be followed. The claimant must present  
11 to the employer an affidavit of death of the employee, proper proof of the claimant's  
12 relationship to the deceased and his legal right to the compensation benefits. Such  
13 documentation shall be affixed to the joint petition and submitted to the ~~workers'~~  
14 ~~compensation~~ **district court** judge for approval as hereinabove provided.

15 \* \* \*

16 §1293. Confidentiality of records; exceptions; penalties for violation

17 A.(1) All medical records of an employee, all records of payment of  
18 compensation to an employee or his dependent, all records with respect to the  
19 rehabilitation or attempted rehabilitation of an injured employee, all employer  
20 reports of injury as required by R.S. 23:1306, all claims by an employee or his  
21 dependent filed pursuant to R.S. 23:1310, records submitted to the Louisiana  
22 Workers' Compensation Second Injury Board concerning claims for reimbursement  
23 arising out of a claim by an employee or his dependent filed pursuant to Chapter 10  
24 of this Title, including but not limited to any and all records submitted for requests  
25 for reimbursement, documents maintained in the claim files regarding  
26 reimbursement and settlement requests, and all records submitted pursuant to R.S.  
27 23:1378(A)(5), all safety plans pursuant to R.S. 23:1291(B)(4), all safety records of  
28 the OSHA section obtained in connection with the Insurance Cost Containment Act  
29 or the OSHA 7(c)(1) program, and all data produced pursuant to R.S. 23:1291.2,

1 shall be confidential and privileged, shall not be public records, and shall not be  
 2 subject to subpoena, except that records of the office may be produced in response  
 3 to an order of a ~~workers' compensation~~ **district court** judge based upon his finding  
 4 that the record is relevant and necessary to the resolution of a disputed claim pending  
 5 before the office. Such confidentiality and privilege shall be strictly maintained by  
 6 the director and all employees of the office except as provided above or in  
 7 Subsection B of this Section and shall be used exclusively for the purpose of  
 8 discharging the duties and responsibilities of the office under this Chapter.

9 \* \* \*

10 B.(1) Notwithstanding the provisions of Subsection A of this Section, once  
 11 in a disputed claim an employer begins to pay benefits to an employee under this  
 12 Chapter or a claim is made by an employee against an employer for benefits under  
 13 this Chapter, pleadings, motions, discovery documents, depositions, hearing  
 14 transcripts, and exhibits entered into evidence in any dispute involving the same  
 15 claimant or any records of the office involving prior benefits paid by an employer  
 16 to the same claimant shall be available to the employer, the employee, and their  
 17 counsel upon simple request. Any decision, award, or order of a ~~workers'~~  
 18 ~~compensation~~ **district court** judge is a public record and may be compiled and  
 19 disseminated to the public. The complete record of any formal hearing shall be made  
 20 available to the court of appeal when an appeal is filed.

21 \* \* \*

#### 22 SUBPART B. CLAIM RESOLUTION

23 §1310. Initial filing of claim ~~with office of~~ **for** workers' compensation  
 24 ~~administration~~

25 A. If, **Beginning January 1, 2015, if** at any time after ~~notification to the~~  
 26 ~~office of~~ the occurrence of death, **which happened on or after January 1, 2015,** or  
 27 injury **resulting, which happened on or after January 1, 2015, and which lasted**  
 28 in excess of seven days lost time, a bona fide dispute occurs, the employee or his  
 29 dependent or the employer or insurer may file a claim with the ~~state office, or the~~

1 district office where the hearing will be held on a form to be provided by the director  
2 district court.

3 B. ~~In addition to any other information required by the director, the~~ The  
4 claim shall set forth the time, place, nature, and cause of the injury, the benefit in  
5 dispute, and the employee's actual earnings, if any, at the time of the filing of the  
6 claim with the office.

7 \* \* \*

8 §1310.2. Duties of director

9 A. The chief administrative officer ~~to assist the workers' compensation judges~~  
10 shall be the director of the office of workers' compensation administration, who shall  
11 be subject to the general administrative authority of the executive director.

12 \* \* \*

13 §1310.15. Employer's records and books; subject to inspection; self-incriminating  
14 evidence

15 All books, records, and payrolls of the employers showing or reflecting in  
16 any way upon the amount of wage expenditures of such employers shall always be  
17 open for inspection by the director or any other authorized auditor, accountant, or  
18 inspector for the purpose of ascertaining the correctness of the wage expenditure and  
19 number of men employed and such other information as may be necessary for the  
20 purposes and uses of the director in the administration of the Workers' Compensation  
21 Act. No person shall be excused from testifying or from producing any book, record,  
22 or payroll in any investigation or inquiry, by or upon any hearing before the ~~workers'~~  
23 ~~compensation~~ district court judge, when ordered to do so by the ~~workers'~~  
24 ~~compensation~~ district court judge, upon the ground that the testimony, payroll, or  
25 other competent evidence required of him may tend to incriminate him or subject  
26 him to penalty or forfeiture; but no person shall be prosecuted, punished, or  
27 subjected to any penalty or forfeiture for or on account of any act, transaction,  
28 matter, or thing concerning which he shall have under oath, by order of the ~~workers'~~  
29 ~~compensation~~ district court judge, testified to or produced documentary evidence



1 of, provided however, that no person so testifying shall be exempt from prosecution  
2 or punishment for any perjury committed by him in his testimony.

3 \* \* \*

4 §1314. Necessary allegations; dismissal of premature petition; dispute of benefits

5 \* \* \*

6 B. The petition shall be dismissed when the allegations in Subsection (A) of  
7 this Section are denied by the employer and are shown at a time fixed by the  
8 ~~workers' compensation~~ **district court** judge to be without reasonable cause or  
9 foundation in fact.

10 C. The ~~workers' compensation~~ **district court** judge shall determine whether  
11 the petition is premature and must be dismissed before proceeding with the hearing  
12 of the other issues involved with the claim.

13 \* \* \*

14 §1316. Answer, failure to file; judgment by default

15 If a defendant in the principal or incidental demand fails to answer within the  
16 time prescribed by law or the time extended by the ~~workers' compensation~~ **district**  
17 **court** judge, and upon proof of proper service having been made, judgment by  
18 default may be entered against him. The judgment shall be obtained by written  
19 motion.

20 \* \* \*

21 §1317. Hearing on the merits; rules of procedure; effect of judgment; costs; fees of  
22 medical witnesses

23 A. If an answer has been filed within the delays allowed by law or granted  
24 by the ~~workers' compensation~~ **district court** judge, or if no judgment has been  
25 entered as provided in R.S. 23:1316 at the time for hearing or any adjournment  
26 thereof, the ~~workers' compensation~~ **district court** judge shall hear the evidence that  
27 may be presented by each party. Each party shall have the right to be present at any  
28 hearing or to appear through an attorney. The ~~workers' compensation~~ **district court**  
29 judge shall not be bound by technical rules of evidence or procedure other than as

1           herein provided, but all findings of fact must be based upon competent evidence and  
2           all compensation payments provided for in this Chapter shall mean and be defined  
3           to be for only such injuries as are proven by competent evidence, or for which there  
4           are or have been objective conditions or symptoms proven, not within the physical  
5           or mental control of the injured employee himself. The ~~workers' compensation~~  
6           **district court** judge shall decide the merits of the controversy as equitably,  
7           summarily, and simply as may be.

8           B. Costs may be awarded by the ~~workers' compensation~~ **district court** judge,  
9           in his discretion, and when so awarded the same may be allowed, taxed, and  
10          collected as in other civil proceedings. The fees of expert witnesses shall be  
11          reasonable and fixed in the original judgment. The judgment rendered shall have the  
12          same force and effect and may be satisfied as a judgment of a district court.

13   \*       \*       \*

14          §1317.1. Independent medical examinations

15   \*       \*       \*

16          E. When the independent medical examiner's report is presented within thirty  
17          days as provided in this Section:

18                 (1) The examiner shall be protected from subpoena except for a single trial  
19                 deposition. However, upon a proper motion for cause, the ~~workers' compensation~~  
20                 **district court** judge may order further discovery of the independent medical  
21                 examiner as deemed appropriate.

22                 (2) Except to schedule the deposition or further discovery as described above,  
23                 the office of the independent medical examiner shall not be contacted regarding the  
24                 claimant by any party, attorney, or agent.

25          F. Objections to the independent medical examination ~~shall be made on form~~  
26          ~~LDOL-WC-1008, and~~ shall be set for hearing before a ~~workers' compensation~~  
27          **district court** judge within thirty days of receipt. No mediation shall be scheduled  
28          on disputes arising under this Section.

29   \*       \*       \*

1 §1361. Unlawful discrimination prohibited

2 \* \* \*

3 E. Any party found by a ~~workers' compensation judge or a~~ court of competent  
4 jurisdiction to have brought a frivolous claim under this Section shall be held  
5 responsible for reasonable damages incurred as a result of this claim, including  
6 reasonable attorney's fees and court costs.

7 Section 2. R.S. 23:1310.1, 1310.2(B) and (C), 1310.3, 1310.4, 1310.5, 1310.6,  
8 1310.7, 1310.8, 1310.9, 1310.10, 1310.11, 1310.13, 1311, are hereby repealed.

9 Section 3. It is the intent of the legislature that the district courts shall have original  
10 jurisdiction regarding workers' compensation claims. To that end, the transfer of workers'  
11 compensation claims from the office of workers' compensation to the appropriate district  
12 court on the effective date of this Act shall be accomplished with the least possible  
13 disruption of services and the least possible expenditure of public funds. The officials and  
14 employees participating in the effectuation of the transfers required by this Act shall be  
15 charged with the responsibility for carrying out this intent.

16 Section 4. This Act shall become effective on January 1, 2015.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Carla S. Roberts.

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#### DIGEST

Murray (SB 227)

Present law provides that original jurisdiction for workers' compensation claims shall be the office of workers' compensation, within the Louisiana Workforce Commission.

Proposed law repeals present law and provides that original jurisdiction for workers' compensation claims shall be the district courts.

Present law provides that if at any time after notification to the office of the occurrence of death or injury resulting in excess of seven days lost time, a bona fide dispute occurs, the employee or his dependent or the employer or insurer may file a claim with the office of workers' compensation where the hearing will be held on a form to be provided by the director of the office of workers' compensation.

Proposed law provides that beginning January 1, 2015, if a death or injury which lasts longer than seven work days and a bona fide dispute occurs, the employee or his dependent or the employer or insurer may file a claim with the district court so long as the accident or injury occurred on or after January 1, 2015.

Present law provides workers' compensation judges, employed by the office of workers' compensation, shall adjudicate workers' compensation claims.

Proposed law repeals present law and provides that district court judges shall adjudicate workers' compensation claims.

Effective January 1, 2015.

(Amends R.S. 23:1102(A)(2), 1103(A)(3), 1121(B)(1), 1141(A), 1143(A) and (B)(1), 1171(B), 1171.1(C)(1), (C)(2)(intro para), (4), and(D)(1), 1201(F)(1), 1201.1(I)(2), (J)(1), (3), and (4), and (K)(1)-(4), (6), (8)(a)(intro para), and (8)(b), (c), and (d), 1201.3(A)-(C), 1201.4(A), 1208(D) and (E), 1226 (B)(3)(a), (D), and (E), 1272(A)-(D), 1274, 1293(A)(1) and (B)(1), 1310, 1310.2(A), 1310.15, 1314(B) and (C), 1316, 1317, 1317.1 (E) and (F) and 1361(E); repeals R.S. 23:1310.1, 1310.2(B) and (C), 1310.3, 1310.4, 1310.5, 1310.6, 1310.7, 1310.8, 1310.9, 1310.10, 1310.11, 1310.13, 1311)