
A BILL FOR AN ACT

RELATING TO AN OFFICE OF ADMINISTRATIVE HEARINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in most federal
2 agencies and in many state, territorial, and local
3 jurisdictions, administrative adjudications take place within a
4 single agency that combine regulatory, enforcement,
5 prosecutorial, and adjudicatory authority. The legislature
6 believes that this combination of functions creates a potential
7 conflict of interest. The legislature also believes that this
8 combination of functions may also compromise the integrity of
9 administrative adjudications and is often perceived as unfair by
10 the litigants opposing the agencies.

11 The legislature also finds that the conflict of interest
12 inherent in the same agency acting as both prosecutor and judge
13 has led to the establishment of state central hearing agencies,
14 also known as central panels. In central panels, an independent
15 administrative law judge presides over the administrative
16 litigation and is completely independent of the agency



1 prosecutorial functions. Approximately twenty-nine state and
2 local jurisdictions, including New York City, the City of
3 Chicago, Cook County, Illinois, and the District of Columbia,
4 have addressed this conflict by creating a central hearing
5 agency.

6 The legislature further finds that the American Bar
7 Association House of Delegates, on February 3, 1997, approved a
8 model act that provides guidance to states intending to create
9 central panels. The American Bar Association enunciated a goal
10 of separation of functions in section 1-2(a) which states that
11 the "Office of Administrative Hearings is created as an
12 independent agency in the Executive Branch of State Government
13 for the purpose of separating the adjudicatory function from the
14 investigatory, prosecutory and policy-making functions of
15 agencies in the Executive Branch."

16 The American Bar Association model act, as well as the
17 current practices in most central panel states, authorizes the
18 central panel to hear all contested cases that arise from a non-
19 exempt agency. Central panel states report that state
20 legislatures continue to expand and confer additional
21 jurisdiction on existing central panels. Likewise, the American



1 Bar Association model act and nearly all current central panel
2 states authorize some or all final decision making authority in
3 the central panel administrative law judges.

4 The purpose of this Act is to require the legislative
5 reference bureau to submit a report to the legislature regarding
6 the existing administrative hearings process in the State and
7 the potential for a centralized office of administrative
8 hearings that includes:

9 (1) Statistical, non-confidential information from 2018
10 from all state departments and agencies that conduct
11 or delegate contested case hearings, and which must be
12 provided to the legislative reference bureau by
13 August 1, 2019; and

14 (2) Research on centralized administrative hearings
15 offices in other jurisdictions.

16 SECTION 2. (a) The legislative reference bureau shall
17 compile a report of the contested case hearings process
18 conducted or delegated by the various state departments and
19 agencies.

20 (b) To facilitate the completion of the report by the
21 legislative reference bureau, all state departments and agencies



1 that conduct or delegate contested case hearings shall provide
2 the following data for 2018 regarding all contested case
3 hearings to the legislative reference bureau by August 1, 2019:

- 4 (1) Case type, based on subject matter;
- 5 (2) Caseload statistics, including:
 - 6 (A) Number of administrative hearings conducted;
 - 7 (B) Average duration of cases, from filing to
8 disposition;
 - 9 (C) Number of hearings officers; and
 - 10 (D) Number of contested cases appealed to the court;
11 and

12 (3) Costs, broken down by case type.

13 (c) All state departments and agencies shall provide the
14 legislative reference bureau with information on any areas of
15 conflicts of interest or other barriers to third party
16 administrative hearings.

17 (d) Each state department or agency that provides
18 information to the legislative reference bureau pursuant to this
19 section shall also specify whether the 2018 data is
20 representative of a typical year with regard to contested case
21 hearings for that department or agency.



1 (e) The legislative reference bureau shall have the
2 ability to request additional non-confidential information from
3 each department and agency, as needed.

4 SECTION 3. The legislative reference bureau shall research
5 whether other jurisdictions have centralized administrative
6 hearings offices. For all jurisdictions that have centralized
7 administrative hearings offices, the legislative reference
8 bureau shall summarize how each of these systems are run.

9 SECTION 4. The legislative reference bureau shall submit a
10 report of its findings and recommendations, including a
11 summation of the statistical data provided by section 2 and a
12 summary of research complied pursuant to section 3, to the
13 legislature no later than twenty days prior to the convening of
14 the regular session of 2020.

15 SECTION 5. This Act shall take effect on July 1, 2019.
16



Report Title:

Office of Administrative Hearings; LRB Study; Report; Contested Cases

Description:

Requires the legislative reference bureau to submit a report to the legislature regarding the existing administrative hearings process in the State and the potential for a centralized office of administrative hearings. Requires state departments and agencies to provide statistical, non-confidential information on contested case hearings to the legislative reference bureau. Requires the legislative reference bureau to research centralized administrative hearings offices in other jurisdictions. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

